

1 HANSON BRIDGETT LLP
KURT A. FRANKLIN, SBN 172715
2 kfranklin@hansonbridgett.com
TYSON M. SHOWER, SBN 190375
3 tshower@hansonbridgett.com
LISA M. POOLEY, SBN 168737
4 lpooley@hansonbridgett.com
SAMANTHA D. WOLFF, SBN 240280
5 swolff@hansonbridgett.com
425 Market Street, 26th Floor
6 San Francisco, California 94105
Telephone: (415) 777-3200
7 Facsimile: (415) 541-9366

8 OTTEN LAW, PC
VICTOR OTTEN, SBN 165800
9 vic@ottenlawpc.com
JUSTIN OTTEN, SBN 295583
10 3620 Pacific Coast Highway, #100
Torrance, California 90505
11 Telephone: (310) 378-8533
Facsimile: (310) 347-4225
12

Attorneys for Plaintiffs

13 CORY SPENCER, DIANA MILENA SMOLUCHOWSKA-MIERNIK,
AND COASTAL PROTECTION RANGERS, INC.

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

16 CORY SPENCER, DIANA MILENA
17 SMOLUCHOWSKA-MIERNIK, COASTAL
PROTECTION RANGERS, INC., a California
18 non-profit public benefit corporation,

19 Plaintiffs,

20 v.

21 LUNADA BAY BOYS; THE INDIVIDUAL
MEMBERS OF THE LUNADA BAY BOYS,
22 including but not limited to DAVID MELO,
CHARLIE MOWAT, SANG LEE, BRANT
23 BLAKEMAN, ALAN JOHNSTON,
MICHAEL RAE PAPAYANS, ANGELO
24 FERRARA, FRANK FERRARA, CHARLIE
FERRARA, TOM SULLIVAN, BRENDAN
25 LAMERS, MICHAEL THIEL; PAUL
HUGOBOOM; CASSIDY BEUKEMA; CITY
26 OF PALOS VERDES ESTATES; and DOES
8-100,

27 Defendants.
28

Case No. BC629596

Assigned to Honorable Carolyn B. Kuhl
Department 309

FIRST AMENDED CLASS ACTION
COMPLAINT FOR:

1. Violation of California Coastal Act
2. Violation of The Bane Act
3. Public Nuisance
4. Assault
5. Battery

JURY TRIAL DEMANDED

Action Filed: August 4, 2016

1 Plaintiffs Cory Spencer, Diana Milena Smoluchowska-Miernik¹, and Coastal Protection
2 Rangers, Inc. (collectively referred to as "Plaintiffs"), by and through their attorneys, allege based
3 upon their own personal knowledge as to their own acts, upon information and belief, and upon
4 their attorneys' investigation as to all other facts.

5 INTRODUCTION

6 1. The California Constitution ensures that "access to the navigable waters of this
7 State shall be always attainable for the people thereof."² The Coastal Act, enacted in 1976, states
8 that the "coastal zone is a distinct and valuable natural resource of vital and enduring interest to all
9 the people" and provides protections to ensure that beaches are public and individuals cannot
10 block access to the coast. The Coastal Act requires "maximum access, which shall be
11 conspicuously posted."³ The Coastal Act created the Coastal Commission to regulate the use of
12 land and water in the coastal zone. The Coastal Act directs the Coastal Commission to
13 "[m]aximize public access to and along the coast and maximize public recreational opportunities
14 in the coastal zone consistent with sound resources conservation principles and constitutionally
15 protected rights of private property owners."⁴ The Coastal Act gives the Coastal Commission the
16 power to regulate violations of the statute through the Commission's Enforcement Program.

17 2. Contrary to the goal of the Coastal Act, a group of mostly middle aged white males,
18 who are referred to as and sometimes call themselves "The Bay Boys,"⁵ has blocked public access
19 to the beaches of Palos Verdes Estates, Lunada Bay in particular, for over 40 years. In what is a
20 multi-generational practice of extreme "localism," and using rules established by the "older boys,"
21 the Bay Boys use physical violence, threats of bodily harm, vandalism to visitor's vehicles, verbal
22 harassment and other intimidation to enforce their unwritten rule: "If you don't live here, you
23

24 ¹ Plaintiff Milena Smoluchowska-Miernik formerly used the last name Reed, but no longer does
25 so.

26 ² Cal. Const., art. X, § 4.

27 ³ Pub. Res. Code § 30210.

28 ⁴ Pub. Res. Code § 30001.5(c).

⁵ Members of the gang have also referred to it as "Lunada Locals," "Lunada Pirates,"
"Protectors," "Fraternity," and "Family."

1 don't surf here." Indeed, members of the Bay Boys believe it is "disrespectful" for outsiders to
2 visit, use or even photograph "their" beach. Even if a newcomer is allowed access, it is expected
3 that he will pay his dues by upholding the gang's tenets, putting in work, and undergoing hazing.

4 3. Because the City of Palos Verdes Estates (the "City") has failed to effectively
5 address the localism problem, the Coastal Commission's Enforcement staff became involved. By
6 letter dated January 21, 2016, enforcement analyst Jordan Sanchez of the Coastal Commission
7 wrote then-Chief Jeff Kepley of the Palos Verdes Police Department that, among other things:

8 [T]he alleged activities described in various accounts . . . constitute
9 'development' under the Coastal Act and Palos Verdes Estates Local
10 Coastal Program ("LCP") . . . Precluding full public use of the
11 coastline at Palos Verdes Estates, including the waters of Lunada
12 Bay, whether through physical devices, such as construction of a
13 fence, or nonphysical impediments, such as threatening behavior
14 intended to discourage public use of the coastline, represents a
15 change of access to water, and, thus, constitutes development under
16 the Coastal Act and the Palos Verdes Estates LCP. No coastal
17 development permit has been issued to authorize this activity,
18 therefore, it is a violation of the LCP. . . . We have also received
19 reports of unpermitted structures, including stone forts, constructed
20 on the shoreline of Lunada Bay. Pursuant to the permitting
21 requirements of the LCP, the construction of a structure is also
22 development that is within the power of the City to address, and
23 which requires authorization under the LCP, or if lacking, would be
24 a violation of the LCP as well.

18 **OVERVIEW OF THE CITY'S VIOLATION OF**
19 **RELEVANT LAND USE LAWS AND POLICIES**

20 4. Since 1971, the Coastal Act has guided coastal development. The Coastal Act
21 generally requires a coastal permit from either the Coastal Commission or the local government,
22 for any "development activities" (broadly defined) that include the construction of buildings,
23 divisions of land, and activities that change the intensity of use of land, or public access, to coastal
24 waters. Development can also mean restricting access to the coast via a physical barrier such as a
25 gate or fence, the use of security guards to deter beachgoers, or through fear and intimidation by
26 groups such as The Bay Boys.

27 5. Recently, the California Legislature amended the Coastal Act to incorporate
28

1 “Environmental Justice.”⁶ More specifically, in 2016, the Coastal Act was amended to address the
2 fact that low income and underserved communities often lack access to the coastline. This
3 amendment calls for the consideration of environmental justice, as defined, or the equitable
4 distribution of environmental benefits in communities throughout the state, when acting on a
5 coastal development permit. “Environmental justice” means the fair treatment of people of all
6 races, cultures, and incomes with respect to the development, adoption, implementation, and
7 enforcement of environmental laws, regulations, and policies. As amended, in order to advance
8 the principles of environmental justice and equality, no person in the State of California, on the
9 basis of race, national origin, ethnic group identification, religion, age, sex, sexual orientation,
10 color, genetic information, or disability, shall be unlawfully denied *full and equal access* to the
11 benefits of, or be unlawfully subjected to discrimination, under any program or activity that is
12 conducted, operated, or administered pursuant to this division, is funded directly by the state for
13 purposes of this division, or receives any financial assistance from the state pursuant to this
14 division.⁷

15 6. The State of California granted the City a conditional sovereign tide and submerged
16 lands trust in 1963, which was amended in 1968. This grant covers the City’s entire coastline,
17 known as the Palos Verdes Estates Shoreline Preserve, and includes Lunada Bay. The grant
18 reserves the area for the People of California. Towards this end, it requires and was conditioned
19 upon the granted land to be used for statewide interests, including for “preservation of areas...for
20 activities such as surfing and other water sports, and the natural beauty and biological resources
21 and activities related thereto...” (Chap. 1975, Stats. 1963; Chap. 316, Stats. 1968.) Further, the
22 City cannot at any time grant, convey, give or alienate such lands, or any part thereof, to any
23 individual, firm or corporation for any purposes whatever.....” And, “[i]n the management,
24 conduct, operation and control of said lands or any improvements, betterments, or structures
25 thereon, the city or its successors shall make no discrimination in rates, tolls or charges for any use
26

27 ⁶ Assembly Bill 2616 (Burke) amended sections 30301 and 30604, and added sections 30013 and
28 30107.3 to the Public Resources Code, relating to coastal resources.

⁷ Pub. Res. Code, § 30013.

1 or service in connection therewith.” And, the State “reserve[s] to the people of California the right
2 to fish in the waters on said lands with the right of convenient access to said water over said lands
3 for said purpose.” Attached hereto as Exhibits 1 and 2 are true and correct copies of Statutes of
4 1963 relating to tide and submerged lands granted in trust to the City of Palos Verdes Estates, and
5 the 1968 amendment.

6 7. On March 10, 1970, the City adopted the “Master Plan for Palos Verdes Estates
7 Shoreline Preserve.” The Master Plan recognizes certain recreational opportunities on the City’s
8 coastline, including surfing, scuba diving, swimming, and boating. Further, it recommends
9 delineation and improvement of access trails to encourage the activities while promoting public
10 safety – and identified Lunada Bay as being an area where reasonably safe trails should be
11 improved and provided. Lunada Bay was to be considered as an improved viewing site. Attached
12 hereto as Exhibit 3 is a true and correct copy of the City of Palos Verdes Estates Shoreline
13 Preserve Master Plan.

14 8. The City Local Coastal Program (LCP) was certified by the Coastal Commission in
15 1991.⁸ However, the City has not only failed to adhere to the conditions of the grant from the
16 State of California and failed to follow its Master Plan, but it has also failed to be a good steward
17 of the coast. The City has violated the Coastal Act by: (a) allowing unpermitted structures along
18 its coastline, such as the Rock Fort⁹, (b) ignoring requests made by Coastal Commission staff to
19

20
21 ⁸ Local Coastal Programs (LCPs) are basic planning tools used by local governments to guide
22 development in the coastal zone, in partnership with the Coastal Commission. LCPs contain the
23 ground rules for future development and protection of coastal resources in the 76 coastal cities and
24 counties. The LCPs specify appropriate location, type, and scale of new or changed uses of land
25 and water. Each LCP includes a land use plan and measures to implement the plan (such as
26 zoning ordinances). Prepared by local government, these programs govern decisions that
27 determine the short- and long-term conservation and use of coastal resources. While each LCP
28 reflects unique characteristics of individual local coastal communities, regional and statewide
interests and concerns must also be addressed in conformity with Coastal Act goals and policies.
Following adoption by a city council or county board of supervisors, an LCP is submitted to the
Coastal Commission for review to ensure consistency with Coastal Act requirements.

⁹ In a June 19, 2014 email to City Planning and Building Director Sheri Repp Loadsman, City
Code Enforcement Officer Joe Mendoza wrote: “I have received a complaint that the area where
this structure is located is off limits to non-locals (surfers).”

1 make Lunada Bay more accessible, (c) using City “discretion” as an excuse to enforce municipal
2 and other laws in a manner that discriminates and deters people from visiting Lunada Bay and
3 other City-owned beaches, and (d) by allowing the Lunada Bay Boys (the Individual Defendants
4 and their associates) to unlawfully exclude public access to Lunada Bay.

5 9. This lawsuit is about equity: improving the public’s access to the coast. Plaintiffs
6 seek to bring the City into compliance with the Coastal Act and its LCP, and to end the Lunada
7 Bay Boys’ practice of localism and illegal exclusion of others along the Palos Verdes Estates
8 Shoreline Preserve. In concert with the Lunada Bay Boys, Plaintiffs believe that the City’s failure
9 to enforce the protections of the Coastal Act is a leading cause of the decline in the protection,
10 preservation, and restoration of coastal habitats and public access to coastal resources in
11 California.

12 SUMMARY OF ADDITIONAL RELEVANT FACTS

13 10. The City, renowned for its natural beauty, is home to approximately 13,500
14 residents and employs more than 40 police personnel. The City is one of the most exclusive and
15 expensive communities in Southern California, accessible by a single road. The median 2018
16 sales price for homes in Palos Verdes Estates for May 24 to Aug 23 was \$1,832,500 (based on 44
17 home sales), however residences near the coastline reportedly sell for in excess of 6 million
18 dollars.¹⁰ Like their private security guard counterparts at other well-known Southern California
19 coastlines, the local police protect the million dollar views from outsiders. But unlike the well-
20 known beaches up the coast, the City’s coastline is publicly owned above the high tide line.

21 11. In addition to the sovereign tide and submerged lands, the City owns Lunada Bay, a
22 beach that must be crossed to access Southern California’s premier big-wave break. Despite
23 offering one of the most beautiful beaches with prime recreation, few people from the outside use
24 it.

25 12. This anomaly results from Lunada Bay being one of the surfing world’s most
26 recognized areas for *localism*: a territorial practice whereby resident surfers attempt to exclude
27

28 ¹⁰ https://www.trulia.com/real_estate/Palos_Verdes_Estates-California/.

1 nonresident beachgoers and surfers through threats, intimidation, and violence.¹¹

2 13. More specifically, with City knowledge and without proper permit, Defendant
3 Lunada Bay Boys and the Individual Members of the Lunada Bay Boys, including but not limited
4 to Defendants Sang Lee and Charles Mowat, knowingly built and maintained an illegal and
5 unpermitted masonry-rock-and-wood fort and seating area ("Rock Fort") in violation of the
6 California Coastal Act.¹² The steep switch-backed trails that lack proper improvements act as
7 perfect pinch points, which the Lunada Bay Boys use to block access to the shoreline. From the
8 Rock Fort and the bluffs above, the Individual Members of the Lunada Bay Boys orchestrate
9 illegal activity that is intended to keep the public away. Some of the more egregious tactics
10 include: (1) physically obstructing outsiders' access to the beach trails; (2) throwing rocks; (3)
11 running people over with surfboards in the water; (4) punching outsiders; (5) stealing outsiders'
12 wallets, wetsuits and surfboards; (6) vandalizing vehicles and personal property, including
13 slashing tires and waxing pejorative slurs onto vehicle windows; (7) levying threats against
14 outsiders; and (8) intimidating outsiders with verbal insults, gestures, and threats of serious injury.

15 14. Examples of communication used by Lunada Bay Boys to intimidate outsiders
16 include: (1) telling Plaintiff Diana Miernik you are "fucking sexy baby...want to film it?"; "I seen
17 [sic] you and I think I touched myself a little bit"; "I can do whatever I want"; saying "I could tell
18 people's body language and the way people are and she just looked like a bitch to me and a liar";
19 "Too bad this bitch that called the cops on [David Melo] is such a cunt. She sure has a great rack
20 and ass!"; (2) referring to Plaintiff Spencer as that "baldheaded white guy ...[that] looks like a
21 boogie board or to fuck [sic] what a joke!"; (3) dressing in black face on Martin Luther King Jr.
22 Day during an event organized by outsiders as a peaceful protest about their exclusion from
23
24

25 ¹¹ See, Warshaw, Matt, The Encyclopedia of Surfing, p. 340 (2003).

26 ¹² In February 2016, City Manager Dahlerbruch wrote to Defendant Charles Mowat thanking him
27 for an email to him and the City Council, assuring him that removal of the Rock Fort "is not
28 imminent or planned." The City eventually removed the unpermitted structure after the Plaintiffs'
Federal Action was filed. But this has been short lived. This year, the City allowed rebuilding of
the unpermitted structure that serves as the headquarters for the Bay Boys to harass visitors. See,
attached Exhibit 6.

1 Lunada Bay; (4) telling outsiders they “own the police”; (5) telling visitors they are too poor or do
2 not pay enough taxes to access Lunada Bay; and (6) referring to outsiders as “kooks” and
3 “faggots.” In short, members of the Lunada Bay Boys are dedicated to keeping outsiders away
4 from Lunada Bay, while the City tolerates this behavior with the like-minded intent to keep the
5 City for locals only. But neither the City nor the Lunada Bay Boys can lawfully exclude outsiders
6 from a public beach.

7 15. Moreover, although they are disregarded when it comes to outsiders, the City’s
8 land use policies are designed to preserve the public’s enjoyment of the shoreline and bluff top.
9 Further, amongst many local laws not enforced when it comes to the Lunada Bay Boys, the City’s
10 Municipal Code prohibits anyone from blocking or impeding access to the beach. Despite the
11 City admitting that the Lunada Bay Boys resemble a gang, it chooses not to address it. This
12 omission is because, for more than 40 years, the Bay Boys helped keep outsiders away – serving
13 as the “unwelcome mat” to the diverse people who might otherwise want to visit Lunada Bay. In
14 a community founded on a “utopian” exclusivity ideal, influential City residents, certain elected
15 officials, and City employees like it this way. Thus, for nearly 40 years the Lunada Bay Boys
16 have used violence, threats, and acts of intimidation to obstruct access to the beaches of Palos
17 Verdes Estates with complete impunity from the City and its police.

18 16. Under the guise of the City’s “discretion,” examples of local laws not enforced
19 when it comes to the Lunada Bay Boys include illegal construction on City property, drinking in
20 public, illegal campfires, illegal fishing, and no enforcement of its surf riding ordinance. By
21 contrast, in an effort to deter outsiders from visiting the City and its coastline, outsiders are
22 targeted for moving vehicle violations, equipment violations, expired registration, parking
23 citations, and potential violations of other municipal ordinances; are detained in disproportionate
24 numbers; and are subsequently held in the City’s jail in greater numbers. City police officers are
25 not trained in coastal access laws or in the City’s coastal-oriented ordinances and have little or no
26 training on implicit biases or cultural sensitivity with respect to working with members of the
27 public.

28 17. Coastal Commission staff have received complaints about illegal bullying and

1 localism at Lunada Bay, and that people are deterred from visiting this area because of such
2 activity. Specifically, outside beachgoers are afraid for the safety of themselves, their families,
3 and their personal property. Further, Coastal Commission staff have stated that the overall
4 situation in the City requires change and improvements to ensure public access to Lunada Bay is
5 available to all. And, Coastal Commission staff have stated they are not satisfied with the City's
6 efforts to address the illegal exclusionary activity. In addition, Coastal Commission staff have
7 stated that providing coastal experiences to lower-income people is important, as well as removing
8 impediments to other underserved populations, improving barriers-free access to persons with
9 disabilities, as well as mitigating discriminatory impacts to other protected-category beachgoers.

10 18. The Coastal Act provides for citizen suits: Under sections 30111, 30803, 30804,
11 and 30805 of the Public Resources Code, citizens can bring a legal action for declaratory relief,
12 injunctive relief, and civil fines and penalties to address violations of the Coastal Act¹³ – which are
13 in addition to any other remedies available at law. Because the Coastal Commission has limited
14 resources, their staff have indicated that private citizen lawsuits that seek to enforce coastal access
15 laws play an important role in coastal protection in California.

16 SUMMARY OF RELATED FEDERAL LITIGATION

17 19. On March 29, 2016, Plaintiffs filed a class action lawsuit in the United States
18 District Court, Central District of California, seeking to represent a class of at least several
19 thousand members who reside outside the City and who desire “lawful, safe, and secure access to
20 Lunada Bay to engage in recreational activities.” *Spencer v. Lunada Bay Boys*, United States
21 District Court for the Central District of California Case No. CV 16-02129 SJO (RAOx) (the
22 “Federal Litigation”).

23
24 ¹³ Public Resources Code section 30803 provides in relevant part: “[a]ny person may maintain an
25 action for declaratory and equitable relief to restrain any violation of this division, of a cease and
26 desist order issued pursuant to Section 30809 or 30810, or of a restoration order issued pursuant to
27 Section 30811.” (Pub. Res. Code, § 30803, subd. (a).) Section 30803 embodies the equitable
28 enforcement tool which *members of the public* may use against landowners or other persons who
fail to obtain a permit before developing within the coastal zone or who obtain a permit but violate
the permit's conditions. *See, California Coastal Comm. v. Tahmassebi* (1998) 69 Cal.App.4th
255, 259.

20. In the Federal Litigation, Plaintiffs brought claims against Defendants City of Palos Verdes Estates, Chief of Police Jeff Kepley¹⁴ in his representative capacity, the Lunada Bay Boys and the following individual members of the Lunada Bay Boys: (1) Alan Johnston; (2) Brant Blakeman; (3) Michael Rae Papayans; (4) Angelo Ferrara, (5) N.F. (a minor at the time the federal complaint was filed); (6) Sang Lee; (7) Frank Ferrara; and (8) Charlie Ferrara (“Individual Defendants”).¹⁵ In the Federal Litigation, Plaintiffs asserted the following causes of action against the City, Chief Kepley, the Lunada Bay Boys, and the Individual Defendants: (a) violation of the Bane Act, California Civil Code § 52.1(b) against the Lunada Bay Boys and Individual Defendants (“Bane Act Claim”); (b) public nuisance pursuant to California Civil Code §§ 3479 and 3480 against the Lunada Bay Boys and Individual Defendants (“Nuisance Claim”); (c) violation of the Equal Protection Clause of the Fourteen Amendment to the United States Constitution pursuant to 42 U.S.C. § 1983 (“§ 1983”) against the City and Chief Kepley (together, “City Defendants”) (“Equal Protection Claim”); (d) violation of the Privileges and Immunities Clause of Article IV of the United States Constitution pursuant to § 1983 against City Defendants (“P & I Claim”); (e) violation of various provisions of the California Coastal Act against all defendants (“Coastal Act Claim”); (f) assault against the Lunada Bay Boys and Individual Defendants (“Assault Claim”); (g) battery against the Lunada Bay Boys and Individual Defendants (“Battery Claim”); and (h) negligence against the Lunada Bay Boys and Individual Defendants (“Negligence Claim”).

21. On June 3, 2016, in the Federal Litigation, City Defendants filed a Motion to Dismiss Complaint (“City Motion”), asking the Court to dismiss the three causes of action brought against them. On July 11, 2016, the Court denied the City Defendants’ motion as to Plaintiffs’ Equal Protection Claim. In denying the City Motion as to the Equal Protection Claim, the Court

¹⁴ Chief Kepley, sued in his representative capacity only, was replaced as Chief of Police by Capt. Mark Velez – who has long served in the City’s police department. Chief Velez was named as the Interim Chief of Police in the summer of 2017, and officially took over the role by the end of 2017.

¹⁵ Defendants David Melo, Charlie Mowat, Tom Sullivan, Brendan Lamers, Cassidy Beukema, Paul Hugoboom and Michael Thiel were not named defendants in the Federal Litigation.

1 stated, "Plaintiffs allege that members of the LBB [Lunada Bay Boys] are dedicated to keeping
2 nonresidents away from Lunada Bay, and that the City tolerates this behavior with the like-minded
3 intent 'to keep [the City] for locals only.'" The Court also noted that the Lunada Bay Boys are not
4 unfamiliar to the City's Police Department, but "[f]or many decades" complaints made by victims
5 of Lunada Bay Boys have gone unanswered. The Court granted the City Motion with respect to
6 the P & I Claim. Based on *Burford v. Sun Oil Company*, the Court declined supplemental
7 jurisdiction as to the City and abstained from hearing the Coastal Act Claims stating they raise
8 complex or controversial matters of State law. 319 U.S. 315 (1943); 28 U.S.C. § 1367.

9 22. On June 16, 2016, the Individual Defendants started filing Motions to Dismiss.
10 Although Individual Defendants had brought several independent motions, the arguments
11 presented in each motion were nearly identical. On July 22, 2016, the Court denied the Individual
12 Defendants' motions in their entirety. "The Court also conclude[d] that it would be fair to
13 exercise supplemental jurisdiction over Plaintiffs' state law claims, for Plaintiffs allegations center
14 on localism practiced by Individual Defendants and, at the very least, tolerated by City
15 Defendants."

16 23. Because the federal court declined to exercise supplemental jurisdiction over, and
17 abstained from hearing, Plaintiffs' Coastal Act Claims against the City Defendants on the merits in
18 the Federal Litigation, Plaintiffs brought this state court lawsuit as a class action against the
19 Defendants on the Coastal Act Claims alone. Further, in this state court lawsuit Plaintiffs initially
20 added David Melo and Mark Griep¹⁶ as Individual Defendants who are members of the Lunada
21 Bay Boys.

22 24. On July 14, 2017, Defendants City and Chief of Police Jeff Kepley ("Chief
23 Kepley") (collectively, "City Defendants") filed a Motion for Summary Judgment in the Federal
24 Litigation. On July 21, Defendant Sang Lee ("Lee") filed his Motion for Summary Judgment. On
25 July 24, Defendants Michael R. Papayans, Angelo Ferrara, Alan Johnston, Brant Blakeman,

27 ¹⁶ With this First Amended Complaint, although Mark Griep is alleged to be an associate of the
28 Bay Boys, Plaintiffs do not rename Mr. Griep as a defendant. Mr. Griep did not answer the initial
complaint or otherwise appear in this action.

1 Charlie Ferrara, and Frank Ferrara each filed summary-judgment motions.

2 25. While the summary-judgment motions were pending, on September 28, 2017,
3 Plaintiffs filed a motion for sanctions against Defendants Frank Ferrara, Charlie Ferrara, and Sang
4 Lee for destruction of text messages and other electronic evidence. (Sanctions Mot., ECF No.
5 468.) The Court granted in part and denied in part Plaintiffs' Motion for Sanctions and ordered
6 that Plaintiffs would be permitted to depose Defendants Frank Ferrara, Charlie Ferrara, and Sang
7 Lee regarding issues relevant to spoliation and further ordered that the parties would be permitted
8 to present evidence and argument at trial related to the unrecoverable information. (ECF Nos.
9 496, 526 and 542.) The Court also initially ordered the imposition of monetary sanctions against
10 Frank and Charlie Ferrara, but subsequently amended its order after determining that the parties
11 settled the monetary award. (*Id.*)

12 26. On October 30, 2017, Plaintiffs requested leave to file a motion for sanctions
13 against City Defendants and Brant Blakeman based on their alleged failure to preserve a number
14 of text messages sent between Brant Blakeman and Sang Lee on a cell phone owned by City
15 Defendants and provided to Defendant Blakeman pursuant to the Palos Verdes Estates Disaster
16 District Program ("DDP"). (ECF No. 508.) The Court granted the motion, in part, and ordered a
17 further deposition of Defendant Blakeman, as well as monetary sanctions against Brant Blakeman
18 in the total amount of \$68,223.13 and further ordered that Plaintiffs could present evidence and
19 argument at trial related to the unpreserved and unrecoverable text messages. (Feb. 12, 2018
20 Order, ECF No. 544, at 4-5; March 29, 2018 Order, ECF No. 568.) No sanctions were granted
21 against the City Defendants. (*Id.*)

22 27. On February 12, 2018, the Court granted the City's Motion for Summary
23 Judgment. It did not grant or deny the individual defendants' motions,¹⁷ but instead dismissed the
24 Federal Litigation as to Plaintiffs' remaining state law claims without prejudice on jurisdictional
25 grounds. Regarding the state law claims, the Court found that it did not have original admiralty
26

27 ¹⁷ Prior to the federal court ruling on the individual Defendants' motions for summary judgment,
28 at Magistrate Judge Rozella A. Oliver's suggestion, Defendants Frank and Charlie Ferrara
withdrew their motion for summary judgment. (ECF No. 491.)

jurisdiction and declined to exercise jurisdiction over the supplemental state law claims, having dismissed all federal claims:

Whether the Court should decline supplemental jurisdiction over Plaintiffs' remaining claims is a more difficult question. It is undoubted that Plaintiffs have spent a significant amount of time and resources pursuing their [state] claims in federal court and have faced a plethora of issues related to discovery. Plaintiffs' claims, however, raise distinct issues of state law, involve parties who are all citizens of California, concern access to property that is all located in California, and consider matters that have been deemed of great concern to local governments and media outlets. *Given the State of California's significant interest in enforcing its own laws, the fact that there is already a co-pending action in state court, and the possibility that the discovery issues resolved here may streamline these processes in state court, the Court finds that the values of "economy, convenience, fairness, and comity" weigh in favor of dismissal.* See *Carnegie-Mellon*, 484 U.S. at 352-53.

(Feb. 12, 2018 Order, ECF No. 545 at 19, emphasis added.) Plaintiffs are appealing to the Ninth Circuit the Federal Trial Court’s ruling on the City’s summary judgment motion on Plaintiffs’ section 1983 claim in addition to the class certification ruling, however, the appeal will not affect this case. Discovery in the Federal Litigation was completed, and if Plaintiffs prevail on their appeal, the sole federal claim (section 1983) against the City will be tried.

THE PARTIES

Plaintiffs

28. Plaintiff Cory Spencer is a 47-year old resident of Norco, California, an El Segundo police officer, experienced surfer, and avid beachgoer. On behalf of himself and a class of visiting beachgoers to the City of Palos Verdes Estates, Spencer alleges that he has been unlawfully excluded from recreational opportunities at Palos Verdes Estates parks, beaches, and access to the ocean.

29. Plaintiff Diana Milena Smoluchowska-Miernik is a 31-year old resident of Southern California, a filmmaker, photographer, aspiring big wave surfer, avid beachgoer, and new mother. She surfed and trained extensively with the dream of surfing big waves. On behalf of herself and a class of visiting beachgoers to the City of Palos Verdes Estates, Plaintiff Diana Miernik alleges that she has been unlawfully excluded from recreational activities at Palos Verdes Estates' parks and beaches, and has been denied access to the ocean.

1 30. Plaintiff Coastal Protection Rangers, Inc. is dedicated to enforcing the California
2 Coastal Act and protecting California's beaches and ensuring that they are safe and accessible to
3 all visitors. Along with the individual Plaintiffs Spencer and Miernik, the Coastal Protection
4 Rangers allege that non-resident, non-local visiting beachgoers to Palos Verdes Estates – including
5 those protected under the States' Environmental Justice amendments to the Coastal Act – have
6 been unlawfully excluded from recreational opportunities at Palos Verdes Estates parks, beaches,
7 and access to the ocean in violation of the California Constitution, article X, section 4, the Coastal
8 Act, and other laws. Plaintiff Coastal Protection Rangers also alleges that Defendant Lunada Bay
9 Boys, with the okay of Defendant City of Palos Verdes Estates, which owns the beach-park area,
10 knowingly built and maintains several unpermitted masonry-rock-and-wood fort and seating areas
11 ("Rock Fort") and access trails and other structures in violation of the California Coastal Act.
12 Further, also in violation of the California Constitution and the Coastal Act, the Coastal Protection
13 Rangers allege that other actions of the Lunada Bay Boys, the City of Palos Verdes Estates, and
14 the Individual Defendants illegally obstruct the Plaintiffs and other beachgoers from using Lunada
15 Bay.

16 **Defendants**

17 31. Defendant Lunada Bay Boys was, and at all times mentioned herein is, an
18 unincorporated association within the meaning of Code of Civil Procedure § 369.5 and
19 Corporations Code § 18035, acting by and through its respective members and associates. People
20 who surf or frequent Lunada Bay are identified in Exhibit 4, which is attached and incorporated
21 herein. Defendant Lunada Bay Boys act by and through its respective members and associates,
22 individually, collectively, and in concert, and conducts its affairs and activities in the City of Palos
23 Verdes Estates, County of Los Angeles, State of California. Defendant Lunada Bay Boys claim
24 territory, or "turf", within the City of Palos Verdes Estates' Lunada Bay neighborhood (Lunada
25 Bay) depicted in Exhibit 5, which is attached and incorporated herein.

26 32. Defendant Lunada Bay Boys is, and at all times mentioned herein was, also an
27 unincorporated association within the meaning of Code of Civil Procedure § 369.5 and
28 Corporations Code § 18035, subdivision (a), inasmuch as it consists of two or more individuals

1 joined by mutual consent for some common lawful purposes, such as attending social gatherings,
2 and recreational events. However, notwithstanding any common lawful purpose, Defendant
3 Lunada Bay Boys is a gang whose members are primarily engaged in illegal and nuisance
4 activities, which constitute Bane Act violations and a public nuisance.

5 33. Defendant Lunada Bay Boys is comprised of members and associates including,
6 but not limited to Individual Defendants David Melo, Charlie Mowat, Sang Lee, Brant Blakeman,
7 Alan Johnston aka Jalian Johnston, Michael Rae Papayans, Angelo Ferrara, Frank Ferrara, Charlie
8 Ferrara, Tom Sullivan, Brendan Lamers, Cassidy Beukema, Paul Hugoboom, and Michael Thiel
9 (collectively hereinafter known as "Designated Lunada Bay Boys" or "the Individual
10 Defendants"), each of whom has been within the Lunada Bay and is responsible in some manner
11 for the Coastal Act violations described in this Complaint.

12 34. Defendant City of Palos Verdes Estates is a general law city in the State of
13 California, bound by the State's general law. Its action and inaction in violation of the Coastal Act
14 has deterred and excluded Plaintiffs, and persons like them, from their right under the California
15 Constitution and the California conditional sovereign tide and submerged land grant, to
16 recreational opportunities at the City's parks, beaches, and access to the ocean.

17 35. Plaintiffs are informed and believe and thereon allege that Defendant David Melo is
18 an individual who resided in the City.

19 36. Plaintiffs are informed and believe and thereon allege that Defendant Charlie
20 Mowat is an individual residing in the City. Charlie Mowat is Doe 1 in the original-filed
21 complaint.

22 37. Plaintiffs are informed and believe and thereon allege that Defendant Sang Lee is
23 an individual who resided in the City.

24 38. Plaintiffs are informed and believe and thereon alleged that Defendant Brant
25 Blakeman is an individual residing in the City.

26 39. Plaintiffs are informed and believe and thereon allege that Defendant Alan
27 Johnston aka Jalian Johnson resides with his parents in the City.

28 40. Plaintiffs are informed and believe and thereon allege that Defendant Michael Rae

1 Papayans resides in the City.

2 41. Plaintiffs are informed and believe and thereon allege that Defendant Angelo
3 Ferrara resides in the City.

4 42. Plaintiffs are informed and believe and thereon allege that Defendant Frank Ferrara
5 resides in Temecula. Plaintiffs are informed and believe that his son, Defendant Charlie Ferrara,
6 resides in San Pedro. Plaintiffs are informed and believe that both Frank Ferrara and Charlie
7 Ferrara have resided in the City.

8 43. Plaintiffs are informed and believe and thereon allege that Defendant Tom Sullivan
9 resides in the City. Tom Sullivan is Doe 3 in the original-filed complaint.

10 44. Plaintiffs are informed and believe and thereon allege that Defendant Brendan
11 Lamers has resided in the City. Brendan Lamers is Doe 4 in the original-filed complaint.

12 45. Plaintiffs are informed and believe and thereon allege that Michael Thiel resides in
13 the City. Michael Thiel is Doe 5 in the original-filed complaint.

14 46. Plaintiffs are informed and believe and thereon allege that Cassidy Beukema
15 resides or has resided in the City. Cassidy Beukema is Doe 6 in the original-filed complaint.

16 47. Plaintiffs are informed and believe and thereon allege that Paul Hugoboom resides
17 in the South Bay and regularly surfs at Lunada Bay. Paul Hugoboom is Doe 7 in the original-filed
18 complaint.

19 48. Defendants Does 8 through 100 are individuals, the true identities of whom are
20 presently unknown to Plaintiffs, who therefore sue these defendants by such fictitious names. The
21 Plaintiffs will amend this complaint to allege their true names when such information is
22 ascertained. The Plaintiffs are informed and believe that each of the defendants designated as
23 Does 8 through 100, inclusive, as well as others to be named, took action on behalf of the City or
24 is a member of Defendant Lunada Bay Boys and is responsible in some manner for the Coastal Act
25 violations or other state law violations as alleged herein.

26 **JURISDICTION AND VENUE**

27 49. The Superior Court for the State of California has jurisdiction over this action
28 under the California Constitution, Article VI, Section 10, which grants the Superior Courts

1 “original jurisdiction in all cases except those given by statute to other trial courts.”

2 50. Plaintiffs bring this lawsuit under Public Resources Code section 30803(a), which
3 provides that “any person may maintain an action for declaratory and equitable relief to restrain
4 any violation of this division.” As described, Plaintiffs are persons under the Coastal Act.

5 51. Venue is proper because all occurrences alleged in the Complaint occurred in this
6 county. Further, because this case is a class action involving numerous parties and claims, it
7 should be designated a Complex Case and should be managed in the Central Civil West
8 Courthouse.

9 **STATEMENT OF FACTS**

10 52. The beaches, shoreline, and surfing areas along the Palos Verdes Estates coastline
11 are supposed to be public. But the City has a long history of illegally excluding people from the
12 Palos Verdes Estates Shoreline Preserve, including but not limited to not investigating or
13 otherwise policing acts of violence and vandalism against visiting beachgoers. For many decades,
14 victims of the Lunada Bay Boys have complained to Defendant City police and City officials. The
15 response is always the same: City leaders acknowledge the problem, promise to do something,
16 and then do little or nothing. In addition to failing to comply with the State grant providing for the
17 conditional sovereign tide and submerged lands that make up the Palos Verdes Estates Shoreline
18 Preserve and allowing unpermitted structures in the Palos Verdes Estates Shoreline Preserve, the
19 City’s action and inaction with respect to the Bay Boys amount to illegal municipal exclusivity
20 that is a Coastal Act violation. Indeed, “local control” of the police department is extremely
21 important in the City. Members of the Lunada Bay Boys, certain elected officials, and some City
22 residents believe the City police and City staff are like the private security guard counterparts at
23 other well-known Southern California coastlines – they are there to help maintain exclusivity on
24 the City’s coastline and to keep outsiders away.¹⁸

25 _____
26 ¹⁸ Within a 13-month period, twice the City has asked voters to approve a parcel tax to keep its
27 small-town police department and jail facility and to avoid contracting with the Los Angeles
28 County Sheriff’s Department for police services – like the other Palos Verdes Peninsula cities. In
an effort to pass “Measure E,” the City hired a consultant. To keep control of the police
department, and have the Chief of Police report directly to the City Manager, some council

1 53. The City tolerates the unlawful activity of the Lunada Bay Boys against nonlocal
2 beachgoers because many of the residents of the City and the City Council do not want outsiders
3 in the City. Along with the Defendant Lunada Bay Boys and the Individual Defendants,
4 Defendant City considers non-residents to be “trolls,” “suspicious persons,” “graffiti artists,”
5 and/or “riffraff.” They do not want to welcome “outsiders” to the City’s beaches and the City
6 enforces the laws accordingly. As succinctly stated by former City Chief of Police Timm Browne:
7 “People here do not like outsiders in general. Umm, I mean, they pay a price to live here. Umm,
8 they have beautiful views of the ocean from most of the homes in the City. Umm, so, uh, they are
9 protective of their community as a whole, umm, I mean surfers or non-surfers.” Because of this,
10 Plaintiffs and similarly situated persons suffer exclusion from, and full and equal access to, the
11 City’s public parks, beaches, and waters in violation of the Coastal Act.

12 54. Lunada Bay is a rugged Bay located on the northwest tip of the Palos Verdes
13 Peninsula in the City, nestled between Resort Point on the south and Palos Verdes Point on the
14 north. It has been described as, “a gleaming stretch of polished pewter spotlighted by large areas
15 of sparkling silver,” where beach stones are tumbled smooth by the sea, a stark contrast to the
16 infamous rugged, 100-foot cliffs.¹⁹ The beach, surrounding bluffs, and access points are public and
17 owned by Defendant City. By law, Lunada Bay is open to all. In reality, and in violation of the
18 Coastal Act, it is open to few.

19 55. Beyond its beauty, Lunada Bay is Southern California’s premier big-wave break.
20 The Lunada Bay local surfers include local government employees (such as firemen and teachers),
21

22 _____
23 members and City staff have claimed that contracting for police services with the Sheriff’s
24 Department would result in a drop in the quality of service compared to “community-based
25 services” provided by their municipal department – the same department that the Bay Boys have
26 told outsiders that they “own.” It is the same department that issued and paid for a cell phone used
27 by Defendant Brant Blakeman to harass outsiders. It is the same department where a few officers
maintain close relationships with members of the Bay Boys, with the City referring to this as good
community policing. It is the same department where then newly-hired Chief Kepley’s
undercover operation was leaked to the Bay Boys, leading to Plaintiff Diana Miernik’s sexual
harassment on the day of the planned sting, which had been cancelled.

28 ¹⁹ See, Michael Goodman, Los Angeles Magazine, Palos Verdes Surf Wars (June 1996, Vol. 41,
No. 6). See also, Exhibits 1-4.

1 airline pilots, medical doctors, lawyers, and other people in the public trust. It is also the State's,
2 and perhaps the surfing world's, best known area for localism.²⁰ "Lunada Bay in Southern
3 California is generally recognized as the surfing world's most localized break."²¹ In essence,
4 severe localism initiated by Defendant Lunada Bay Boys and the Individual Defendants, combined
5 with the City's historic failure to ensure all people have access to the Palos Verdes Estates
6 Shoreline, in violation of the Coastal Act, has created a private beach on public property that
7 denies Plaintiffs and the members of the class their state constitutional rights.

8 56. On the north side of Lunada Bay nearest Palos Verdes Point, the Lunada Bay Boys,
9 its members, and the Individual Defendants built and maintained until recently an illegal rock-
10 masonry-and-wood fort structure at the base of the 100-foot bluff.²² Lunada Bay Boys and the
11 Individual Defendants previously congregated there to recreate, drink beer, eat, store and cook
12 food, and both plan and conduct illegal activity. In the middle of Lunada Bay, Lunada Bay Boys
13 and the Individual Defendants have built and maintain a steep trail down the 100-foot bluff called
14 the Goat Trail.²³ Next, Defendant Lunada Bay Boys and Individual Defendants have built a
15 campfire ring with seating in the middle of Lunada Bay, near the base of the Goat Trail.²⁴ Further,
16 Defendant Lunada Bay Boys and Individual Defendants store sea kayaks, crab pots, lobster traps,
17 coolers, and other recreational items near the base of the Goat Trail.²⁵ On the south side of
18 Lunada Bay, there is another trail down to Lunada Bay ("South Trail"),²⁶ and additional sea
19 kayaks and items are stored in this area.²⁷

22 ²⁰ See, Warshaw, Matt, The Encyclopedia of Surfing, p. 445 (2003); Warshaw, Matt, The History
23 of Surfing, p. 263 (2010).

24 ²¹ See, Warshaw, Matt, The Encyclopedia of Surfing, p. 341 (2003).

25 ²² See, Exhibits 5-8.

26 ²³ See, Exhibit 9.

27 ²⁴ See, Exhibit 10.

28 ²⁵ See, Exhibits 11, 12, 13 & 14.

²⁶ See, Exhibit 15.

²⁷ See, Exhibit 16.

1 57. Defendant Lunada Bay Boys and its members frequently invoke the gang name
2 "Bay Boys," and upon information and belief, wear inscribed clothing with the gang name "Bay
3 Boys"²⁸ as they commit their illegal and nuisance activities. Upon information and belief, the
4 "Bay Boys" generally only surf on boards built by its members or locals who surf their spot,
5 primarily Joe Bark, Zen Del Rio, Tom Sullivan, and Dan Dreiling,²⁹ or Individual Defendant
6 Angelo Ferrara surfboards.³⁰ The "Bay Boys" generally only wear black wetsuits, frequently with
7 hoods, and insist their members change into wetsuits and beach attire at ocean level rather than the
8 top of the cliff.³¹ Upon information and belief, Lunada Bay Boys use the gang's name to confront,
9 threaten, intimidate, and harass non-local beachgoers (surfers, boaters, sunbathers, fisherman,
10 picnickers, kneeboarders, stand-up paddle boarders, boogie boarders, bodysurfers, windsurfers,
11 kite surfers, kayakers, dog walkers, walkers, hikers, beachcombers, photographers, sightseers,
12 etc.), and other individuals who work in, visit and pass through Palos Verdes Estates and Lunada
13 Bay. On top of the 100-foot bluff, Lunada Bay Boys, its members, and the Individual Defendants
14 intimidate visiting beachgoers with threats and taunts, by taking photos and video of beachgoers,
15 and by congregating near the entrances to both the Goat Trail and South Trail. Upon information
16 and belief, when outsiders arrive by boat to avoid the bluff-side attacks, the Lunada Bay Boys
17 have confronted them with threats and by circling the boats on surfboards, kneeboards, boogie
18 boards, kayaks, rowboats, and other manual powered vessels. The Lunada Bay Boys enforce

20 ²⁸ Upon information and belief, the Bay Boys have also used the names "Lunada Pirates,"
21 "Lunada Bay Surf Club," "Lunada Locals," "Protectors," "Fraternity," "Family," and the trident
and pirate symbols, e.g., skull and cross bones or Jolly Roger, to mark their claim to Lunada Bay.

22 ²⁹ Plaintiffs are informed and believe that although Dan "DJ" Dreiling is not a Bay Boy, he was
23 allowed to surf Lunada Bay because his father, Dan Dreiling Sr., was a 31-year member of the
24 City's Police Department, and a recent police chief. The younger Dreiling ("DJ") made
kneeboards for Individual Defendant Brant Blakeman.

25 ³⁰ Outsiders can be spotted by the type of boards they ride.

26 ³¹ As a general rule, wetsuit hoods are not needed by experienced surfers in Southern California.
27 Palos Verdes ocean temperatures peak in the range 63 to 70°F in the summer and are at their
28 minimum in early February in the range 55 to 61°F. Here, the hoods are used to help conceal their
identity when committing acts of violence in the water. In contrast, experienced surfers in
Northern California, north of Santa Cruz, are more likely to use wetsuit hoods for legitimate
purposes during winter and spring months.

1 localism by targeting out-of-town beachgoers to prevent them from enjoying the local waters.
2 Upon information and belief, their assaults (throwing rocks, running people over with surfboards,
3 shoves, slaps, punches, etc.), thefts (wallets, wetsuits, and surfboards), vandalism to vehicles and
4 personal property, and threats are for the purpose of establishing a curtain of intimidation to drive
5 outsiders, which they label riffraff,³² away from the coastal area of Lunada Bay.

6 58. Indeed, upon information and belief, since the early 1970s, visiting surfers and
7 other beachgoers have had rocks thrown at them while walking down the 100-foot cliff-side
8 Lunada Bay trails, have been shot by pellet guns, have returned to find their car windows waxed
9 with the word “kook” or windows broken, their tires slashed or air let out, barefoot trails covered
10 in glass, property stolen (wallets, wetsuits, surfboards), and beach towels, backpacks, and bags
11 dumped in the water. When in the ocean, the Lunada Bay Boys dangerously disregard surfing
12 rules when it comes to outsiders, threaten outsiders with violence,³³ run over outsiders with their
13 surfboards, push outsiders, turn their dogs loose on outsiders, hit outsiders, slap outsiders, harass
14 outsiders by circling them, and hold outsiders underwater. Upon information and belief, members
15 of the Lunada Bay Boys coordinate their attacks on outsiders by sharing photographs and video
16 that they take of outsiders, monitoring police and fire radios to learn if the police may start to
17 enforce the laws or visit the bluff, communicating via walkie talkies, text message group chats,
18 email, mobile phones, and other electronic devices.³⁴

19 **A PARTIAL DOCUMENTATION OF VIOLENT ALTERCATIONS, THREATS AND**
20 **INTIMIDATION FOR THE PURPOSE OF PREVENTING BEACH ACCESS**

21 59. For many years, The Bay Boys have conspired to commit wrongful acts for the
22 purpose of keeping outsiders from coming to Lunada Bay. The agreements between the individual
23 members of the Bay Boys are made orally, in writing, and are implied by the conduct of the
24 _____

25 ³² Upon information and belief, in describing outsiders, Defendants have also used the words
26 “trolls,” “suspicious persons,” “graffiti artists,” and “kooks.”

27 ³³ See, e.g., police reports attached as Exhibits 17-20, describing nonresidents’ complaints of
28 assault, vandalism, and criminal threats by the LUNADA BAY BOYS.

³⁴ See, Warshaw, Matt, The Encyclopedia of Surfing (2003); Surfer Magazines Guide to Southern
California Surf Spots, pp. 92-96 (2006).

1 parties. These actions violate the Coastal Act, amount to a public nuisance, and violate other laws.

2 60. On January 22, 1995, a Brazilian surfer was accosted by several Lunada Bay Boys.
3 Plaintiffs are informed and believe that one of the Lunada Bay Boys was David Hilton. The
4 Brazilian surfer reported to the police that suspect #1 told him angrily, "If you go out, no more car,
5 no more tires, no more glass, your car will be trash." He said that suspect #1 was much taller and
6 bigger than he was and he was afraid of the suspect. He said he backed away from suspect #1 and
7 suspect #2 walked up to him and deliberately knocked his surfboard into his [surfboard]. He said
8 the suspect #2 told him, "If you cross, I will fight you. I will break your face." He said he was
9 afraid that the suspect would hurt him and backed away from him. He said suspect #3 yelled at
10 him, "Fuck Brazil." The Brazilian surfer told the police that approximately 15 other Lunada Bay
11 Boys were standing around them. He said he was fearful that he and his friends were going to be
12 hurt, went back to their car, drove to a local gas station, and called the police.³⁵

13 61. Plaintiffs are informed and believe that, on or about December 13, 2003, the City's
14 Police Department conducted an undercover surf territorialism sting operation. Plaintiffs are
15 informed and believe that, during this operation, Individual Defendant Tom Sullivan was observed
16 spitting on the side door and handle of a van parked along the bluff belonging to an undercover
17 officer posing as an outsider and photographer. Plaintiffs are informed and believe that Individual
18 Defendant Sullivan later yelled to a group that the police were watching them, revealing the
19 undercover operation.

20 62. Another well-documented incident at Lunada Bay occurred in March 1995, when a
21 Channel 13 TV news crew filmed Lunada Bay Boy Peter McCullom assault Geoff Hagins, Mr.
22 Hagins' nephew, and several others, including Mike Bernard, a Vietnam combat veteran, who was
23 there watching his son surf. Bay Boy McCollum confronted the surfers screaming: "Don't surf
24 on the hill." He was pounding his fists together very close to Mr. Hagins' face. Bay Boy
25 McCullom then said, "this is what will happen to you if I see you again." He continued yelling
26 numerous things including, "Come back and you will be killed." In an offensive attempt to defend
27

28 ³⁵ See, Exhibit 17.

1 his actions, Bay Boy McCollum boasted to the Los Angeles Times: “We’ve protected this beach
2 for years. This is why: so we can have driftwood on the beach rather than Kentucky Fried
3 Chicken boxes. If this place was ever opened up, it would be packed with lowriders . . . the rocks
4 would be marked with graffiti and this place would not be safe at night.”³⁶

5 63. In or about 2006, an aspiring professional body boarder attempted to surf “Wally’s”
6 – a right-hand point break located in the cove just south of Lunada Bay. As he walked down the
7 trail, the body boarder noticed several men sitting in another unpermitted rock hut built at the base
8 of the trail. Plaintiffs are informed and believe and thereon allege that these men were members of
9 the Lunada Bay Boys. One of the men said to the body boarder, “Where the fuck do you think
10 you are going?” The body boarder replied, “I am going to surf that spot,” and changed into his
11 wetsuit. Then, a man from the hut came and took a swing at him. The body boarder blocked the
12 punch and threw the man to the ground. At that point, in typical Lunada Bay Boys style, the other
13 men attacked the body boarder, who grabbed his board and escaped into the safety of water. The
14 men from the shore yelled, “Boogie go home!” The body boarder stayed in the water until dark.

15 **(Aloha Point 2014 To the Present)**

16 ***(Locals Conspire to Harass and Intimidate Visiting Surfers)***

17 64. On January 20, 2014, Christopher Taloa – a former US Amateur Body Boarding
18 Champion, an actor, and a volunteer for the Coastal Protection Rangers – organized a public
19 surfing event at Lunada Bay for Martin Luther King, Jr. Day. Mr. Taloa asked for “loving
20 individuals to play in loving waters of aloha.” His mission was to peacefully unlock Lunada Bay
21 for beachgoers everywhere. Writer Rory Parker, also a surfer, helped publicize the Martin Luther
22 King, Jr. Day event.

23 65. The Bay Boys learned about the event planned for Lunada Bay through various
24 social media outlets and began to coordinate with their members to harass any outsiders attending
25 the event. The planning was done by e-mail, text messages, and word of mouth. For example,
26 after learning of the planned protest, Lunada Bay Boy Defendant Tom Sullivan sent Lunada Bay
27

28 ³⁶ See, Exhibit 18.

1 Boy and Defendant Sang Lee an email directing him to alert "the whole crew so everyone knows,
2 and we can all be on the same page." Defendant Sang Lee dutifully passed along Tom Sullivan's
3 email. Lunada Bay Boy and Defendant Charlie Mowat responded to Defendant Lee's email by
4 stating "I will be on the patio alllllllllll day on Monday throwing out heckles and sporting a BBQ.
5 I'm already warming up."³⁷ The Recipients of this email included Andy Patch, Charlie Beukema,
6 David Melo, Mark Griep, and Zen Del Rio, among many others. Defendant Charlie Mowat again
7 wrote to Defendant Lee, Defendant Tom Sullivan, and several others, to say "[h]ope you're off
8 Monday for the fiasco. I'm going to sponsor a BBQ and be on the patio all day."³⁸

9 66. On the day of the event, when Taloa entered the ocean, he was surrounded by
10 Lunada Bay Boys. Members of the Lunada Bay Boys kicked Taloa, splashed water into his face,
11 and taunted and harassed him. And while he does not yet know the names of all of the individual
12 members present that day, Taloa believes that Mark Griep and Defendant Jalian Johnston were
13 present. Moreover, in an extremely offensive gesture, but consistent with the views expressed by
14 Peter McCullom years earlier, a Lunada Bay Boy had his face painted in black makeup and wore a
15 black Afro wig.³⁹ This person stated to Taloa, "You don't pay enough taxes to be here." One of
16 the defendants, Bay Boy Alan Johnston aka Jalian Johnston, told Taloa, "I will take many a
17 beating for this place," and kicked Taloa when a wave came afterwards.

18 67. A recent article about Lunada Bay in Surfer Magazine quotes Lunada Bay Boy and
19 Defendant Alan Johnston:

20 In a long email, [Johnston] told me that he grew up surfing in an era
21 when surfers 'were anything but the little whiners they are now. We
22 used to get heckled from sun up to sun down and it molded us into
23 the people we are now. Now someone says one little thing and guys
24 are calling cops, lawyers, newscasters, making Facebook pages in
25 utter uproar.' He went on to say that 'outsiders will get nothing
except maybe a shitty one or two... so good luck. Wouldn't any
normal, self-respecting dude just go check elsewhere? Everyone has

26 ³⁷ Lee 00000595.

27 ³⁸ Lee 00000596.

28 ³⁹ Upon information and belief, the person put his blackface makeup on at Defendant Angelo Ferrara's house as they gathered to head to Lunada Bay.

1 a local break and to see it disrespected and slutted out everywhere is
2 just plain f--king dumb.' 'Sign of the times,' the email concluded.⁴⁰

3 68. On March 6, 2014, Christopher Taloa returned to Lunada Bay to surf and was
4 confronted by three Lunada Bay Boys including Individual Defendant Michael Rae Papayans,⁴¹
5 who blocked Taloa's access and told him that he could not surf there. Taloa responded, "You can
6 do whatever you want, it doesn't make a difference. I am going to surf out here." Papayans went
7 into a rant yelling, among other things, that he would "fuck him up right here." Taloa called the
8 police.

9 69. On or around November 15, 2014, attorney Sef Krell arrived at Lunada Bay and
10 proceeded down the Goat Trail with his surfboard, back pack, wetsuit and gear. On his way down
11 the trail, he came across two Lunada Bay Boys. These men stood in Krell's path of travel (in
12 violation of the Coastal Act, Palos Verdes Estates Municipal Code and other laws) and started to
13 yell profanities at him. They told him, "don't surf here" and "bad things will happen if you do."
14 Krell passed the two individuals and continued down the trail but when he was in the narrow part
15 of the path, most exposed, the two individuals began throwing dirt clods and rocks at him. The
16 rocks were roughly half the size of his palm.

17 70. At the base of the cliff, Krell was confronted by a third individual. The man had
18 blonde hair, a fair white-to-reddish complexion, blue eyes, was wearing a straw hat, was probably
19 5'7 to 5'10, and weighed between 145 to 160 pounds. This Lunada Bay Boy told him, "no one
20 wants you surfing here." Krell tried to make conversation with him in a polite manner, but the
21 man continued to hassle him repeating "fuck you, fuck you, get out here." Krell changed into his
22 wetsuit and paddled towards the waves, leaving his personal items in his backpack. From the
23 water, he saw his personal gear being destroyed or tossed into the ocean by the Lunada Bay Boy
24 that was harassing him on the shoreline; this included a pair of Nike shoes valued at \$150, a cell
25

26 ⁴⁰ Surfer, Volume 58, Number 5, September 29, 2017.

27 ⁴¹ Defendant Michael Rae Papayans pleaded no contest to punching a 50-year-old New York Mets
28 fan in the head and knocking him unconscious in the Dodger Stadium parking lot following a
2015 playoff game.

1 phone - iPhone 4 valued at \$350, a classic Seiko divers watch valued at \$800, which he had
2 owned for 25 years, as well as Ray-Ban sunglasses valued at \$150. Krell filed a complaint with
3 the City Police Department and was given Report No. 2014-11980.⁴² Not having heard from the
4 police for more than three months, in March of 2015, he inquired regarding the status of the
5 investigation. He was told that Detective Belda was handling his complaint and that it had been
6 closed.

7 71. On December 30, 2015, the *Los Angeles Times* published an article stating the new
8 "Palos Verdes police chief promises to take on the 'Bay Boys' of Lunada" and described what
9 happened to Krell. The article stated: "Krell said he will wait and see if the police are serious —
10 but he has his doubts. He filed a complaint last year and his case remains unsolved, in part, he
11 says, because detectives didn't follow up adequately." Once the article in the *Los Angeles Times*
12 was published, more than a year after the incident, Krell was contacted by Sergeant Barber⁴³ to
13 view a series of photographs of maybe 12 to 18 people; Krell was not able to identify any of the
14 people that were involved in the incident.

15 72. In or about May 2015, another reporter, Rory Carroll, and his friend Noah Smith
16 went to Lunada Bay with a hidden video camera to document their experience. The video shows
17 one of the Lunada Bay Boys, Defendant Sang Lee, made the following comments to Carroll and
18 Smith:⁴⁴

- 19 i. "You shouldn't fucking come down here. Stay away from this
20 area, this Bay right here."
- 21 ii. "The reason there's a lot of space is because we keep it like that.
22 We fucking hassle people."
- 23 iii. "We'll burn you every single wave."
- 24 iv. "There's still fights down here. People will just fucking duke it

25 ⁴² See, Exhibit 25.

26 ⁴³ Sergeant Barber has testified under oath that the term "Bay Boys" refers to the local surfers who
27 regularly surf Lunada Bay. And at the deposition of City employee Catherine Placek, she
28 indicated that Sergeant Barber knew all of the Bay Boys, and that the Bay Boys were the people
who frequently surf Lunada Bay. Barber is friends with many Bay Boys, and their wives,
attending social gatherings with them.

⁴⁴ The video can be viewed at <http://www.theinertia.com/surf/palos-verdespolice-respond-to-Lunada-Bay-localism/>.

1 out, fucking work your car and get in fights.”

2 73. After being subjected to harassment and threats by the Lunada Bay Boys, Carroll
3 and Smith reported the incident to the City Police Department.⁴⁵ In response to their report, the
4 following comment was made by a Defendant City Service Officer named Catherine Placek,
5 transcribed in the video as follows:⁴⁶

6 We know all of them. They are infamous around here. They are
7 pretty much grown men in little men’s mindset. They don’t like
8 anyone that’s not one of the Bay Boys, surfing down there. It
9 literally is like a game with kids on a school yard to them and they
don’t want you playing on their swing set, but, you know, it is what
it is. If you feel uncomfortable, you know, then don’t do it.⁴⁷

10 74. On January 16, 2016, Angelo Ferrara received a text from associate Randy Walton
11 explaining working to “protect” Lunada Bay: “By the way I heard today is one of those ‘surf the
12 bay days’!!!! Boogie boarders and everybody!!! There is a little bit is [sic] Surf, there’s some
13 swell out there but nothing spectacular but I hope it’s packed in those kooks are getting stuffed
14 and burned and that’s about it no further than that. You know what I mean!?!?”

15 75. On January 22, 2016, Defendant Brendan Lamers boasted to Defendant Michael
16 Rae Papayans about the work he had put in to keep outsiders away: “Pathetic we had two kooks
17 out two days ago when I surfed and me and jack just sat right on his ass”; “He didn’t catch a single
18 wave.” Papayans responded: “That’s the way to do it bro [sic] no reason to confront anybody
19 does not [sic] let him get waves and they never come back.” Lamers responded: “Exactly that’s
20 how it has to be [sic] kooks come out then no fun waves [sic] so simple”; “They guy split so fast.”
21 They also discussed a plan developed at Sean Van Dine’s house for still more work, stating in
22 various texts: “Chris Taloa is comming [sic] tomorrow let Benner know and whoever”; “How did
23 you find this out???”; “I’m at a video little party [sic] at van dyne everyone is saying that”; “Oh
24 _____

25 ⁴⁵ The video can be viewed at [http://www.theinertia.com/surf/palos-verdespolice-respond-to-](http://www.theinertia.com/surf/palos-verdespolice-respond-to-Lunada-Bay-localism/)
26 [Lunada-Bay-localism/](http://www.theinertia.com/surf/palos-verdespolice-respond-to-Lunada-Bay-localism/).

27 ⁴⁶ The video can be viewed at [http://www.theinertia.com/surf/palos-verdespolice-respond-to-](http://www.theinertia.com/surf/palos-verdespolice-respond-to-Lunada-Bay-localism/)
[Lunada-Bay-localism/](http://www.theinertia.com/surf/palos-verdespolice-respond-to-Lunada-Bay-localism/). Service Officer Placek confirmed making these statements in deposition.

28 ⁴⁷ The video can be viewed at [http://www.theinertia.com/surf/palos-verdespolice-respond-to-](http://www.theinertia.com/surf/palos-verdespolice-respond-to-Lunada-Bay-localism/)
[Lunada-Bay-localism/](http://www.theinertia.com/surf/palos-verdespolice-respond-to-Lunada-Bay-localism/).

1 shizzle [sic], he say it on his site”; “Everyone’s talking about it we have to sit on this guy.”⁴⁸ On
2 and before January 29, 2016, the Lunada Bay Boys continued their plan to keep outsiders away.⁴⁹

3
4 ⁴⁸ MP 00359, MP00416-MP 00415.

5 ⁴⁹ Text messages exchanged between Defendant Papayans, Sang Lee, and 9 others, including
6 Charlie Mowat, on 1/29/16: [2724 to Sang Lee, Papayans, and others] “The kook is here at the bay
7 right now” (MP 00348); [Mowat to Sang Lee, Papayans, and others] “On my way!!!!” (MP
8 00348); [Papayans to Sang Lee, Mowat, and others] “I’m up”; “Tell him to wait please” (MP
9 00348); [2724 to Papayans, Sang Lee, Mowat and others] “There are two kooks he’s got a little
10 baldheaded white guy with them he looks like a boogie board or to fuck [sic] what a joke!” (MP
11 00347); [Mowat to Papayans, Sang Lee, and others] “Yep. He’s here” (MP 00347); [Papayans to
12 Sang Lee, Mowat and others] “Michelle get to the bay and roust those kooks” (MP 00347); [7571
13 to Papayans, Sang Lee, Mowat and others] “Lol ok I’m on my way ! [sic]” (MP 00347);
14 [Papayans to Mowat, Sang Lee, and others] “Get him charlie, just go shake his hand, tell him we
15 missed him and can’t believe he didn’t make any of these latest headlines, he should be ashamed”
16 (MP 00346-MP 00347); [Mowat to Papayans, Sang Lee, and others] “He’s in the water. Only five
17 guys out. Get down here boys. I’m out there” (MP 00346); [1505 to Papayans, Mowat, Sang Lee,
18 and others] “Fuck give me [sic] hell” (MP 00344)); see also Ex. 13 (text exchange between
19 Papayans and co-conspirator Brandon Lamers, 1/29/16: [Lamers to Papayans] “Chris Taloa is
20 comming [sic] tomorrow let Benner know and whoever” (MP 00360); [Papayans to Lamers]
21 “How did you find this out???” (MP 00360); [Lamers to Papayans] “I’m at a video little party [sic]
22 at van dyne everyone is saying that” (MP 00360); [Papayans to Lamers] “Oh shizzle [sic], he say
23 it on his site” (MP 00360); [Lamers to Papayans] “Everyone’s talking about it we have to sit on
24 this guy” (MP 00359); [Lamers to Papayans] “Don’t understand man once again ruin a good day
25 with that crap” (MP 00359); [Papayans to Lamers] “We will all be holding it down” (MP 00357);
26 [Papayans to Lamers] “Kooks up there” (MP 00346); [Lamers to Papayans] “Huh”; “Allready
27 [sic] up there” (MP 00346); [Papayans to Lamers] “Yup” (MP 00346); [Lamers to Papayans]
28 “Fuck”; “Anyone there allready”; “Gosh damn”; “Are they in the water?”; “I hate this guy” (MP
00345-MP00346); [Papayans to Lamers] “Yea, only 5 guys out and he’s out, I’m going” (MP
00345); [Lamers to Papayans] “Yeah get down there I’ll be up as soon as I can my dad should be
going out soon” (MP 00345); [Mowat to Papayans, Blakeman and Thiel] “Surf looks like it could
get epic today. There’s five kooks standing on top of the trial with their own personal
photographer taking pictures of them posing. I think it’s the same Taloa crew. This could get
ugly today. We all need to surf” (MP 00221); [Mowat to Papayans, Blakeman and Thiel] “It’s
definitely Taloa” (MP 00221); [Papayans to Mowat, Blakeman and Thiel] “Yea it’s him, no waves
though” (MP 00221); id. [Mowat to Papayans, Blakeman and Thiel] “Too bad this bitch that
called the cops on [David Melo] is such a cunt. She sure has a great rack and ass!” (MP 00219);
[Thiel to Mowat, Papayans and Blakeman] “Fuck...she’s still down there???” (MP 00219);
[Mowat to Thiel, Papayans and Blakeman] “No, they are all gone. Ghost town Lunada. Just had
an epic sess [sic] with just Sandoval out” (MP 00219); [Thiel to Mowat, Papayans and Blakeman]
“Saw u [sic] get a couple good ones! Good crew down now – Leo, Clyde, Gabron, Chad...” (MP
00219); [Mowat to Thiel, Papayans and Blakeman] “Yep, business as usual. The patio is in good
form” (MP 00219); [Thiel to Mowat, Papayans and Blakeman] “Right on ...” (MP 00219); Ex. 20
(Angelo Ferrara extraction report, 1/29/16 text from Sang Lee to Angelo Ferrara: “Taloa n his
buddies r coming up to the bay today n tomorrow to surf Plz everyone take a day off n surf
..... We need many locals out there today as possible God bless Lunada n all her children (us)

1 This effort included Defendant Sang Lee exchanging texts and other communication with co-
2 Defendants Brant Blakeman and Angelo Ferrara in advance of the January 29, 2016 assault on
3 Plaintiff Spencer.⁵⁰

4 76. Plaintiff Spencer has worked as a police officer for the City of Los Angeles Police
5 Department in the South-Central Division. Presently, he works as a police officer for the City of
6 El Segundo. For more than 30 years, he has wanted to surf the waves off the coast of the City of
7 Palos Verdes Estates – specifically Lunada Bay. But Spencer – who has worked gang
8 neighborhoods in the toughest parts of Los Angeles – had avoided Palos Verdes Estates’ Lunada
9 Bay because of fear, intimidation, vandalism, and Lunada Bay’s well-known reputation for
10 violence and beach localism.

11 77. But in January 2016, Spencer worked up his courage to surf Lunada Bay during a
12 large winter swell. To surf Lunada Bay, even though Palos Verdes Estates is an exclusive
13 community with more than 40 police personnel, Spencer and other surfers had to pay a security
14 guard \$100 to protect the vehicles from vandalism while they surfed. Upon arrival, members of
15 the Defendant Lunada Bay Boys told him “you can’t surf here kook.” Once in the water, the
16 harassment began. Defendant Brant Blakeman sat right next to Spencer and his friend, shadowing
17 their movements in the water. On his second wave, a member of Defendant Lunada Bay Boys
18 intentionally ran Spencer over with his surfboard and sliced open Spencer’s hand. Spencer had
19 been targeted for attack in a series of text messages exchanged between Defendants Michael R.
20 Papayans, Sang Lee, Charlie Mowat, and others. Upon information and belief, Plaintiffs believe
21 that Defendant Sang Lee also coordinated the actions against Spencer on January 29, 2016 via cell
22 phone by calling Defendant Charlie Mowat twice and Defendant Blakeman approximately 62
23 times.

24 _____
25 [sic]” (at p. 878); Ex. 21 (Def. Lee T-Mobile records, indicating on 1/29/16, Sang Lee called
26 Charlie Mowat at 6:56 am PST (14:56 UTC) (p. 0271) and 8:02 am PST (16:02 UTC) (p. 0272),
and called Defendant Blakeman (at home) 62 times from 1:30 pm PST (21:30 UTC) (p. 0273) to
2:03 pm PST (22:03 UTC) (p. 0275).

27 ⁵⁰ Text from Sang Lee to Angelo Ferrara: “Taloe n his buddies r coming up to the bay today n
28 tomorrow to surf Plz everyone take a day off n surf We need many locals out there
today as possible God bless Lunada n all her children (us) [sic].”

1 78. In February 2016, Spencer returned a second time with Jordan Wright and others to
2 observe and watch the outsiders' cars parked on the bluff above Lunada Bay. Spencer observed
3 Defendant Lunada Bay Boys threaten and taunt surfers. Spencer has complained to City police
4 officers. Later, on March 4, 2016, Spencer wrote to then-Chief of Police Kepley and encouraged
5 an undercover investigation. Upon information and belief, former Chief of Police Kepley did not
6 take the complaint seriously and took no action. He said that they have considered various
7 enforcement strategies. And, he said: "I have been down the patio [Rock Fort] on several
8 occasions and talked with various surfers in an effort to educate them on the position we are all in,
9 and what needs to change in terms of acceptable behavior on their part." That's it. Defendants'
10 conduct has caused Spencer pain and suffering, loss of sleep, emotional distress, and mental
11 anguish.

12 79. On January 29, 2016, Plaintiff Miernik and her friend, Jordan Wright, went to surf
13 Lunada Bay. Large surf was forecasted for that day and they were excited to surf the big waves.
14 But when they parked their car on the 2300 block of Paseo Del Mar, a man started shouting, "Get
15 the fuck out of here"; "You shouldn't be surfing here, kook"; "Fucking assholes"; and "Leave."

16 80. After some time, Miernik and Wright put on their wetsuits and started down the
17 trail. After Miernik and Wright made it to the bottom of the trail and were about halfway to the
18 Rock Fort, they were confronted by a member of the Lunada Bay Boys, Defendant David Melo,
19 who walked up to them with his hands in the air and started screaming at them. Defendant Melo
20 was so loud that a peace officer who was standing on top of the cliff above could hear the
21 altercation despite the noise of the crashing waves.⁵¹ Melo screamed:

22 "Fucking Assholes, you kooks."

23 "Get out of here. This is our surf break, don't surf here."

24 "You're going to regret surfing here."

25 "Its dangerous out here."

26 "If you stay here you're going to get hurt."

27
28 ⁵¹ See, Exhibit 20.

1 Miernik was extremely frightened and afraid Melo would assault them. Never in her life had she
2 been screamed and yelled at in such a manner. A group of men observed the incident, including
3 City police officers. Rather than take action, however, the officers approached Miernik after the
4 incident and asked whether Miernik and Wright would like to make a “citizen’s arrest.” Miernik
5 declined to make the arrest and instead chose to file a report, having been assured by the police
6 that the case would be handled by the District Attorney with the same result. Miernik was
7 surprised that the police did not arrest the man, especially because they had witnessed the incident.

8 81. On or about February 5, 2016, Miernik and Wright returned to Lunada Bay with a
9 photographer and writer from The Los Angeles Times. Also on February 5, 2016, Plaintiff
10 Spencer and other outsiders were intimidated by Defendant Blakeman who circled them with a
11 video camera. Other Bay Boys called Spencer names intended to provoke him. The LA Times
12 photographer captured a photo of Defendant Blakeman following Plaintiff Spencer’s friends, Ken
13 Claypool and Christopher Taloa, with his camera along the bluffs. Unbeknownst to Spencer at
14 that time, Defendants Michael Rae Papayans, Brant Blakeman, Charlie Mowat, and Michael Thiel
15 coordinated their harassment of Plaintiff Spencer and his companions on February 5, 2016 via text
16 message.⁵²

17 82. Also on February 5, 2016, Defendants Papayans, Blakeman, Mowat, Thiel and
18 Sullivan coordinated a campaign to use City Manager Dahlerbruch to keep outsiders away from
19
20

21 ⁵² [Mowat to Papayans, Blakeman and Thiel] “Surf looks like it could get epic today. There’s five
22 kooks standing on top of the trail with their own personal photographer taking pictures of them
23 posing. I think it’s the same Taloa crew. This could get ugly today. We all need to surf” (MP
24 00221); [Mowat to Papayans, Blakeman and Thiel] “It’s definitely Taloa” (MP 00221); [Papayans
25 to Mowat, Blakeman and Thiel] “Yea it’s him, no waves though” (MP 00221); id. [Mowat to
26 Papayans, Blakeman and Thiel] “Too bad this bitch that called the cops on [David Melo] is such a
27 cunt. She sure has a great rack and ass!” (MP 00219); [Thiel to Mowat, Papayans and Blakeman]
28 “Fuck...she’s still down there???” (MP 00219); [Mowat to Thiel, Papayans and Blakeman] “No,
they are all gone. Ghost town Lunada. Just had an epic sess [sic] with just Sandoval out” (MP
00219); [Thiel to Mowat, Papayans and Blakeman] “Saw u [sic] get a couple good ones! Good
crew down now – Leo, Clyde, Gabron, Chad...” (MP 00219); [Mowat to Thiel, Papayans and
Blakeman] “Yep, business as usual. The patio is in good form” (MP 00219); [Thiel to Mowat,
Papayans and Blakeman] “Right on ...” (MP 00219).)

1 Lunada Bay.⁵³ Defendant Mowat emailed City Manager Dahlerbruch that same day to state that
2 he was critical of Chief Kepley's use of police resources and that he was not supportive of police
3 sting operations.

4 83. On February 7, 2016, Defendant Mowat reported on the status of their coordinated
5 campaign, and their communication with City Manager Dahlerbruch.⁵⁴ City Manager
6 Dahlerbruch had offered to coordinate a meeting with all of them.

7
8 ⁵³ [Thiel to group] "So everybody- all PVE residents write the mayor, city manager and council.
9 Keep it calm and rational, but clearly express your concerns and outrage at the chief's behavior.
10 Remember, we live here! It's our city. CHA" (MP 00225); [Mowat to group] "From Sully
11 Can't find this guys [sic] contact That tony dallenbach [sic] guy is the city commissioner who
12 hired this douche bag" (MP 00225); [Mowat to group] "Tom/everybody- if you go on the PVE
13 website, all addresses are there (Chach sent out screen shots). Send to Mayor, City Manager, and
14 City Council. In this case, residency matters- if you live in PVE, do it and sign your name!" (MP
15 00224); [Papayans to group] "I'm gonna write them for sure, and my mom is going to as well"
16 (MP 00224); [Thiel to group] "Write on!" (MP 00222); [Mowat to group] "Just proof read and
17 sent my letter to the city. Here are the email addresses for them all. I encourage everybody, and I
18 mean EVERYBODY to write a letter expressing their discontent with police chief Kepley's
19 policies. You don't have to be a homeowner or even a resident. Mike Thiel has a meeting
20 scheduled with them on February 11. The more letters sent the better to support our case. Please
21 take a minute and get this done. Our future depends on it"

22 ⁵⁴ [Mowat to group on 2/7/16] "Dear Mr. Mowat, Thank you for your email to me and the City
23 Council. It was received by all of us and Im [sic] writing to both acknowledge its receipt and
24 respond. Its [sic] been a long day; sorry for the late response. We all would agree that the press
25 about the local surfing situation is creating un-need [sic] attention about a structure that has
26 existed for a long time; social media has further increased the spread of stories and information. I
27 can assure you that City staff, including the Chief, do not intend any arbitrary action(s) related to
28 the patio, and its removal is not imminent or planned. On the other hand, it is an unauthorized
structure and, as with all unauthorized structures in the City's [sic] parklands, we consider the
options of what, if anything, is necessary to do about it. No decisions have been made and of all
the unauthorized structures that exist throughout the City, we are first focusing on those that
represent safety concerns and block the public's [sic] access to open spaces. We have attempted to
convey this information and perspective to the press. The press reports what they want and splices
together information for their report(s). Please also be forewarned, we are aware that the press
plans additional articles in the near future that may or may not accurately represent the staff's [sic]
position and disposition of the structure while calling more attention to the patio. We also have
not had wide-spread reports of vandalism or bullying that the press has implied is a prevalent
situation. However, we have received a few complaints about the area being protected by local
surfers for the exclusive use of select people. In response, the Police Department must assure the
public's [sic] safety and public access to the shoreline, as to the shoreline is public space; thus they
patrol the area as necessary. While doing so, we are pleased to report that since December,
burglaries in the City have sharply declined following intensive work by the Police Department.
The Police Chief reports to me and as such, I [sic] like to invite you to meet and discuss this

1 84. On February 11, 2016, City Manager Dahlerbruch went to the Rock Fort with City
2 Councilmen James Goodhart and John Rea. The three men “were introducing themselves to the
3 people present” at the Rock Fort, including Defendant Charlie Mowat. Defendant Mowat
4 reminded Dahlerbruch of his February 5, 2016 email during their encounter on February 11,
5 2016.⁵⁵

6 85. The following day, on February 12, 2016, Defendant Thiel attended a previously-
7 scheduled meeting with City Manager Dahlerbruch to discuss policing efforts at Lunada Bay.
8 During this meeting, Defendant Thiel told City Manager Dahlerbruch that he was aware of an
9 undercover police operation scheduled to occur at Lunada Bay the following day (February 13,
10 2016), stating something along the lines of “I hope tomorrow isn’t the sting . . . better not be doing
11 this tomorrow.” Following the meeting, City Manager Dahlerbruch called then-Chief Kepley,
12 who subsequently canceled the undercover operation.⁵⁶

13 86. Also on February 12, 2016, Defendant Johnston sent a text message to a friend,
14 stating: “If u really wanna be a bay boy we might meet [sic] help tomm [sic].” When his friend
15 responded that he might be busy, Johnston replied: “Could be a great help if ur [sic] there !!!
16 Supposed to be a police setup at our spot calling all gards [sic][.]”⁵⁷

17 87. On or around February 12, 2016, the *Los Angeles Times* published an article
18 entitled “‘Bay Boys’ surfer gang cannot block access to upscale beach, Coastal Commission
19 says.’” The article contained several photographs of Miernik, including one that showed her in
20 “the locals hangout fort” and stated that she was an “outsider” who had filed a police report for
21

22 further. Our meeting will include both the Mayor and the Police Chief so we can together address
23 your concerns and the topics you raise. It is important to talk about them. If you are interested,
24 please let me know your availability; I will coordinate the meeting for all of us. Thank you and
we share your frustration with all the reports. I look forward to hearing back from you. Tony”
(MP 00188-MP00189).

25 ⁵⁵ June 13, 2016 Memorandum from Norman A. Traub Associates to Scott Tiedemann and Christi
26 Hogin, CITY7087-CITY7096.

27 ⁵⁶ June 13, 2016 Memorandum from Norman A. Traub Associates to Scott Tiedemann and Christi
Hogin, CITY7087-CITY7096.

28 ⁵⁷ Def. Johnston Second Supp. Reply to Pltf. Spencer’s First Req. for Prod. of Docs., Chat
Messages at pp. 4-5 of 7.

1 harassment against the Lunada Bay Boys. The newspaper reported that Lunada Bay Boys
2 “bombard outsiders with dirt clods, slash their car tires, and assault them in the water – sometimes
3 coordinating the attacks with walkie talkies...Surfers who say they have been victimized over the
4 years have accused local authorities of complacency, cowardice, and even complicity.”

5 88. On February 13, 2016, Miernik and Wright returned to Lunada Bay. While
6 walking across Lunada Beach to the Rock Fort, Lunada Bay Boys called her a “bitch,” said “fuck
7 you” and “you are a liar” – in apparent reference to the *Los Angeles Times* article that had been
8 published online the day prior and in hard copy that same day. After arriving at the Rock Fort,
9 Miernik was approached by a brown-haired man in his late 40s or early 50s. The man started
10 asking her various questions, including why she was there, what was her motivation, and what was
11 her mission objective. The man told her that the Lunada Bay Boys were mad at her. Miernik told
12 the man that she was simply there to take photos of Wright and to watch him surf and enjoy the
13 beach. The man eventually left the fort.

14 89. On the morning of February 13, 2016, Defendant Johnston received a text message
15 from a friend, stating “Dont [sic] see any cops at the top.”⁵⁸

16 90. Shortly thereafter, certain Individual Defendants, including Defendants Brant
17 Blakeman and Alan Johnston, approached Miernik with a case of beer and feigned celebration of
18 the *Los Angeles Times* article. But these Defendants blamed Miernik for the unwanted attention
19 that the article had brought upon the Lunada Bay Boys and the City. In an attempt to intimidate
20 Miernik, Blakeman and Johnston asked Miernik to drink with them. When she declined, Johnston
21 shook up a can of beer and sprayed Miernik and her camera with it and poured beer on Miernik’s
22 arm. They filmed the incident. Miernik asked them to stop filming her. They told her they
23 thought she was “sexy,” and filmed her while they told her she “excited them.” Defendant
24 Johnston then made comments about his penis, stating that it was big enough to “get the job
25 done,” and he rubbed his torso and belly in a sexually-suggestive manner, telling Miernik that she
26

27
28 ⁵⁸ Def. Johnston Second Supp. Reply to Pltf. Spencer’s First Req. for Prod. of Docs., Chat
Messages at pp. 3 of 7.

1 made him “excited” and “hard,” which made it easier for him to get into his wetsuit. Defendant
2 Johnston briefly exposed himself to Miernik while he was changing into his wetsuit before
3 Miernik quickly turned away. Defendant Charlie Ferrara witnessed the entire event from the roof
4 of the fort. Miernik attempted to contact the police from her cell phone during the incident but
5 was unable to obtain a signal. Miernik had requested a police escort to the beach upon her arrival
6 at Lunada Bay earlier that day because of her previous experiences, but the police refused her
7 request.

8 91. After walking back up the cliff following this incident, Miernik was in tears and
9 visibly upset. Miernik saw a City police officer sitting inside a patrol car on the side of the road.
10 The officer was completely unaware of the events occurring below the cliff in the fort and on the
11 beach. Miernik told the police officer what happened. The police officer proceeded to take
12 Miernik’s information. After approximately 30 minutes, the police officer walked down the cliff
13 with Miernik, but the Lunada Bay Boy aggressors were gone. Only Defendant Charlie Ferrara
14 remained, but he refused to cooperate with the police and told them he did not see anything,
15 though he apologized to Miernik.

16 92. City police initially attempted to investigate the incident. A police officer
17 identified the man who was videotaping Miernik as Lunada Bay Boy Individual Member and
18 Defendant Brant Blakeman, a local resident who owns a home in Palos Verdes Estates. The City
19 police officer then offered to allow Miernik to identify the other men from photos that the police
20 kept of all the members of the Lunada Bay Boys. But ultimately, City police showed no interest
21 or ability in following up on Miernik’s complaint. They would not commit to a date for her to
22 identify the other member of the Lunada Bay Boys who poured beer on her and exposed himself
23 to her, or other Individual Defendants who had harassed her. Indeed, City police detective
24 Venegas said words to the effect of: “Why would a woman want to go to that beach and the Rock
25 Fort anyways? There are only rocks down there.”

26 93. When the City failed to return Miernik’s calls to set a time to identify the Lunada
27 Bay Boy who poured beer on her and exposed himself to her, as well as identify the other
28 Individual Defendants who had harassed her, she engaged a lawyer who, on March 10, 2016,

1 wrote a letter to the City police. Miernik and her lawyer finally met with former Chief of Police
2 Kepley and Captain Tony Best on March 21, 2016. Former Chief of Police Kepley and Captain
3 Best were friendly and respectful. But it appeared that Chief Kepley and Captain Best knew little
4 about Miernik's complaint and the incident; and they claimed that although they had photographs
5 of the Lunada Bay Boys members, they would not permit Miernik to view these photos so she
6 could identify the man that assaulted her in the Rock Fort, stating only that they would speak to
7 the detective in charge of the investigation. Defendant Kepley said words to the effect that there
8 was "little we can do because we only have 25 full-time POST certified staff," and that the City
9 could only afford to send two officers at a time to inspect Lunada Bay. While cell phones
10 regularly do not work well at the Rock Fort, Former Chief of Police Kepley and Captain Best
11 encouraged Miernik to carry a cell phone and travel with large groups. Captain Best stated that,
12 "there are judges and lawyers that surf out there" – the implication being that made the situation
13 even more difficult to remedy. Miernik asked Chief Kepley: "Is it safe for me to go down there?"
14 Chief Kepley responded with the following: "I wish it was safe, but it's not. I wouldn't even tell
15 a man to go down there." Chief Kepley also said words to the effect, "If I could fix this, I would.
16 I view this as a long term problem." The conduct of Defendants has caused Miernik pain and
17 suffering, loss of sleep, emotional distress, and mental anguish.

18 94. With more than 40 police personnel and its own jail, in addition to non-police-
19 department staff, the City is aware of the Lunada Bay Boys' criminal activity against visiting
20 beachgoers. But in violation of the Coastal Act, the City has a policy, custom, and practice of
21 taking no action when it involves the Lunada Bay Boys and the Individual Defendants.

22 95. Upon information and belief, over the last 40 years, Plaintiffs estimate that several
23 hundred beachgoers have attempted to recreate in and/or near Lunada Bay, and like Spencer and
24 Miernik, all have suffered similar encounters with Defendants. Upon information and belief, these
25 persons have suffered loss of sleep, emotional distress, and mental anguish. Moreover, upon
26 information and belief, many thousands of beachgoers want to visit Lunada Bay to enjoy its
27 beauty and recreational activities but are afraid to do so because of Defendants' conduct.

28 96. On at least one occasion, a member of the Ferrara family, whom Plaintiff Miernik

1 is informed and believes was Defendant Charlie Ferrara, attempted to explain to her the Lunada
2 Bay Boys' philosophy as taught to him by his father and uncle, and by other members of the gang.
3 He told her that many of the locals, especially the younger ones, "take it to the extreme" because
4 "they got hazed by the elder LUNADA BAY BOYS and they want to prove themselves." He also
5 told Miernik that many of the LUNADA BAY BOYS have "had to do things that were
6 unthinkable to show that they cared. To show some respect." He compared it to a fraternity
7 stating: "they are going to make you drink piss to see how bad you want to be in this frat."
8 Regarding the treatment of outsiders, he explained that because of all the media, they had recently
9 become more careful: "Back in the day you could drink and drive, things were cooler back in the
10 day – you could get in a fight and not deal with the cops; today you say the wrong words and you
11 get sued." He also stated, however, "if you come here you, we will make sure that you don't have
12 fun. We will burn⁵⁹ you on every wave. We will make sure that you have a bad session. We stick
13 together. We are a pack. We are a family."

14 COASTAL COMMISSION INTEREST

15 97. By letter dated January 21, 2016,⁶⁰ enforcement analyst Jordan Sanchez of the
16 California Coastal Commission wrote Chief Jeff Kepley of the City Police Department, advising
17 him, among other things, that "threatening behavior intended to discourage public use of the
18 coastline" amounts to a violation of the LCP and also indicating that the City must address
19 unpermitted structures, including the Rock Fort, constructed along the Lunada Bay shoreline.

20 98. By letter dated June 6, 2016, Mr. Sanchez wrote City Manager Anton Dahlerbruch,
21 and gave the City a deadline of July 6, 2016 to begin the process of addressing permitting related
22 to the Rock Fort (either by removing it or making it available to the public) to eliminate any
23 negative effect it has as a "quasi-private structure on public access to the coast." The letter also
24
25

26 ⁵⁹ Under standard surf etiquette, the surfer closest to the wave's peak generally has the right of
27 way. "Burn" someone means to disregard surfing's rules, and drop in on the wave in front of a
28 surfer who has the right of way.

⁶⁰ See, Exhibit 21.

1 addressed developing solutions to make Lunada Bay generally more available to the public.⁶¹
2 Specifically, regarding making Lunada Bay more accessible to the visiting public, the letter
3 suggested the addition of public access amenities, such as signage inviting the public, picnic tables
4 and benches, and observation binoculars.

5 99. On June 7, 2016, City Manager Dahlerbruch wrote a short letter to Mr. Sanchez
6 saying that the City could not comply with the deadline relating to the fort structure.⁶² Instead,
7 Mr. Dahlerbruch stated that the City was implementing a beach clean-up in the area. By letter
8 dated June 9, 2015, Mr. Sanchez responded to Mr. Dahlerbruch's letter stating that the City's June
9 7, letter failed to include a response regarding the public access improvements suggested by
10 Mr. Sanchez.⁶³ Mr. Sanchez's letter concludes by giving the City a July 6, 2016 deadline to
11 address the issues.

12 100. On July 12, 2016, Sheri Repp Loadsmann, Deputy City Manager/Planning and
13 Building Director, issued a Memorandum to the City's Mayor and City Council. The
14 memorandum recommended that the City Council direct staff to schedule a public hearing before
15 the Planning Commission to be held on September 20, 2016, to discuss removal of the
16 unpermitted Rock Fort.

17 CLASS ACTION ALLEGATIONS

18 101. On behalf of themselves and the ascertainable class, Plaintiffs seek to maintain this
19 action as a class action under Code of Civil Procedure section 382 and other applicable law. The
20 class consists of all visiting beachgoers to Lunada Bay who have been deterred from visiting
21 Lunada Bay because of the Lunada Bay Boys' actions, the Individual Defendants' actions, the
22 City's action and inaction, and subsequently denied during the liability period, or are currently
23 being denied full and equal enjoyment of rights under the State constitution, to services, facilities,
24 privileges, advantages, or recreational opportunities at Lunada Bay. For purposes of the class,
25

26
27 ⁶¹ See, Exhibit 22.

28 ⁶² See, Exhibit 23.

⁶³ See, Exhibit 24.

1 visiting beachgoers includes persons who do not reside in the City, and who are not members of
2 the Lunada Bay Boys, but want lawful, safe, and secure access to Lunada Bay to engage in
3 recreational activities, including, but not limited to surfers, boaters, sunbathers, fisherman,
4 picnickers, kneeboarders, stand-up paddle boarders, boogie boarders, bodysurfers, windsurfers,
5 kite surfers, kayakers, dog walkers, walkers, hikers, beachcombers, photographers, and sightseers.

6 102. The class is believed to consist of at least several thousand members who are
7 dispersed across the State of California, as well outside California. Joinder of all of such class
8 members in this lawsuit is impracticable.

9 103. The Plaintiffs will fairly and adequately protect the interests of the class because
10 they have retained counsel with extensive experience in litigation, including class action litigation,
11 and because Plaintiffs have no interests that conflict in any way with those of the class.

12 104. In this state court claim, there are numerous questions of law and fact common to
13 the class, including without limitation, the following:

- 14 a. Whether Lunada Bay Boys was, and at all times mentioned herein
15 is, an unincorporated association within the meaning of Code of
16 Civil Procedure § 369.5 or Corporations Code § 18035,
17 subdivision (a).
- 18 b. Whether the Individual Defendants are members of, or associated
19 with, Lunada Bay Boys.
- 20 c. Whether the Lunada Bay Boys, individually or collectively,
21 illegally block access to Lunada Bay in violation of the Coastal
22 Act.
- 23 d. Whether the Lunada Bay Boys, through unlawful conduct, have
24 claimed the Lunada Bay area as their "turf" and attempt to
25 unlawfully dissuade beachgoers that live outside of the City from
26 recreating in the park, bluff, beach, and ocean areas in and around
27 Lunada Bay.
- 28 e. Whether the Lunada Bay Boys and the Individual Defendants

1 built and maintained the illegal Rock Fort at the base of the 100-
2 foot bluff of Lunada Bay.

3 f. Whether the Lunada Bay Boys and the Individual Defendants
4 built and maintained illegal trails down the 100-foot bluff of
5 Lunada Bay.

6 g. Whether the Lunada Bay Boys and the Individual Defendants
7 have civilly conspired in their intimidating threats, and follow
8 through on these threats.

9 h. Whether the beaches, shoreline, bluff, park, street, and surfing
10 areas in the City, specifically Lunada Bay, are open to the public.

11 i. Whether the beaches, shoreline, bluff, park, street, and surfing
12 areas along Lunada Bay are owned by the City.

13 j. Whether the City had or has illegal and unpermitted structures on
14 its beaches.

15 k. Whether the City, acting under color of law and through policies,
16 customs, and/or longstanding practices, has unlawfully excluded
17 Plaintiffs, persons like them, or persons protected under the
18 Environmental Justice amendments to the Coastal Act, from their
19 right to recreational opportunities at Palos Verdes Estates' parks,
20 beaches, and access to the ocean.

21 105. The Plaintiffs' claims are typical of the claims of the members of the class. Like all
22 other members of the class, Plaintiffs are beachgoers who do not reside in the City and want to
23 safely visit the Lunada Bay area. Plaintiffs desire to lawfully use the Lunada Bay Area, and other
24 Palos Verdes Estates beaches, for recreational purposes, free from the assault, battery, vandalism,
25 intimidation, harassment, and extortion by Lunada Bay Boys and the Individual Defendants.

26 106. The Plaintiffs' claims are typical of the claims of the members of the class. Like all
27 other members of the class, Plaintiffs are beachgoers who desire requisite permitting of the Rock
28 Fort and bluff trails to Lunada Bay by the California Coastal Commission, along with permitting

1 of other structures on Palos Verdes Estates beaches, in addition to any other equitable relief
2 appropriate to ensure access to Lunada Bay, which may include improved trails, restrooms,
3 parking, lighting, and the installation of 24-hour video cameras.

4 107. The Plaintiffs' claims are typical of the claims of the members of the class. Like all
5 other members of the class, Plaintiffs are beachgoers who desire the City and Chief of Police
6 Velez to investigate and prosecute crimes committed by the Lunada Bay Boys and/or the
7 Individual Defendants against non-resident beachgoers.

8 108. This action may be maintained as a class action pursuant to Code of Civil
9 Procedure section 382 because Defendants' unlawful activity is applicable to all members of the
10 class. Therefore, an injunction requiring compliance with the Coastal Act, a judicial determination
11 that the Lunada Bay Boys are a gang engaged in unlawful activity under Public Nuisance and the
12 Bane Act that interferes with rights under the California constitution, and injunctive relief
13 enjoining and restraining Defendant Lunada Bay Boys and the Individual Defendants is
14 appropriate – to ensure open access to Lunada Bay for recreational purposes for all – and the
15 primary relief sought is injunctive relief.

16 109. This action may be maintained as a class action pursuant to Code of Civil
17 Procedure section 382 because the many questions of law and fact that are common to class
18 members clearly predominate over individual questions affecting members of the class. The
19 common issues of law and fact relate to issues central to the case, such as whether Lunada Bay
20 Boys and the City have unlawfully denied members of the class full and equal access to the coast,
21 and to recreate in Lunada Bay, as well as whether Defendants maintain longstanding customs,
22 policies and practices and other measures intended to deny non-resident beachgoers full and equal
23 access to Lunada Bay and the surrounding areas, as provided by the Coastal Act, City ordinances,
24 and other laws.

25 110. Judicial economy will be served by maintenance of this lawsuit as a class action in
26 that it is likely to avoid the burden that would be otherwise placed upon the judicial system by the
27 filing of numerous similar Coastal Act suits by beachgoers who have been denied full and equal
28 access to Lunada Bay.

111. Maintaining this lawsuit as a class action will also avoid the risk of inconsistent outcomes if class members were forced to bring individual Coastal Act actions in various forums.

112. There are no obstacles to effective and efficient management of this lawsuit as a class action by this Court.

113. Plaintiffs contemplate notice to the class by news media publication, including: (1) social networking sites; (2) ocean-oriented internet sites; (3) a California newspaper such as *The Daily Breeze* and/or *The Los Angeles Times*; (4) postings on the California Coastal Commission website; and (4) a coordinated email campaign with a non-profit ocean advocacy groups.

CIVIL CONSPIRACY ALLEGATIONS

114. Plaintiffs repeat, re-allege and incorporate herein by this reference each and every allegation contained in Paragraphs 1 through 113, inclusive.

115. Defendant Lunada Bay Boys is a gang whose members are primarily engaged in violations of the City of Palos Verdes Estates Municipal Code (civil and criminal) and nuisance activities. Moreover, in violation of the Coastal Act, municipal ordinances, and other laws, Defendant Lunada Bay Boys' members regularly confront, harass and assault people attempting to access the beach, but also confront, threaten assault, vandalize property, and bring harm to other persons who live in, work in, or pass through the Lunada Bay area for the primary purpose of preventing those people from accessing the beach area and for the purpose of committing torts and other wrongs on them. Defendant Lunada Bay Boys' gang-related activities against visiting beachgoers to Lunada Bay violate the Coastal Act, the California Constitution, municipal ordinances, and other laws. Defendant Lunada Bay Boys' activities create a threatening and intimidating atmosphere for visiting beachgoers, and therefore, infringe upon their constitutional right to recreate on California's public beaches.

116. Each Individual Member of the Lunada Bay Boys is aware that people attempting to access the beach at Lunada Bay will be confronted, attacked, harassed, assaulted by other Lunada Bay Boys' individual members and associates.

117. The City is aware of the actions by the other Defendants and has not stopped them.

1 **FIRST CAUSE OF ACTION**

2 **(Violation of California Coastal Act – All Defendants)**

3 118. Plaintiffs repeat, re-allege and incorporate herein by this reference each and every
4 allegation contained in Paragraphs 1 through 117, inclusive.

5 119. The California Constitution ensures that “access to the navigable waters of this
6 State shall be always attainable for the people thereof.” (Cal. Const., art. X, § 4.)

7 **CALIFORNIA COASTAL ACT**

8 120. The California Legislature adopted the Coastal Act in 1976 to protect and enhance
9 California’s natural and scenic coastal resources. The California Coastal Act created the
10 California Coastal Commission (hereafter, “the Commission”) in addition to an elaborate planning
11 process to ensure that development in the “coastal zone” is consistent with and reflects the
12 findings and declarations made by the Legislature as stated clearly in Public Resources Code
13 Section 30001:

- 14 (a) That the California coastal zone is a distinct and valuable natural resource
15 of vital and enduring interest to all the people and exists as a delicately
16 balanced ecosystem.
- 17 (b) That the permanent protection of the state’s natural and scenic resources is a
18 paramount concern to present and future residents of the state and nation.
- 19 (c) That to promote the public safety, health, and welfare, and to protect public
20 and private property, wildlife marine fisheries, and other ocean resources,
21 and the natural environment, it is necessary to protect the ecological balance
22 of the coastal zone and prevent its deterioration and destruction.
- 23 (d) That existing developed uses, and future developments that are carefully
24 planned and developed consistent with the policies of [the Coastal Act], are
25 essential to the economic and social wellbeing of the people of this state and
26 especially to working persons employed within the coastal zone.

27 121. The Coastal Act provides that the Act “shall be liberally construed to accomplish
28 its purposes and objectives.” (Pub. Res. Code, § 30009.)

1 122. The "Coastal Zone" is that land specified on maps identified and set forth in section
2 17 of Chapter 1330 of the Statutes of 1975-1976 Regular Session enacting Division 20 of the
3 Public Resources Code and subsequent amendments. In significant coastal estuarine, habitat, and
4 recreational areas it extends inland to the first major ridgeline paralleling the sea, or five miles
5 from the mean high tide line of the sea, whichever is less, and in developed urban areas the zone
6 generally extends inland less than 1,000 yards. (Pub. Res. Code, § 30103, subd. (a).) The section
7 of the City that is the subject of this lawsuit is located within the Coastal Zone.

8 123. The Coastal Act requires that "any person...wishing to perform or undertake any
9 development in the coastal zone... shall obtain a coastal development permit." (Pub. Res. Code,
10 § 30600, subd., (a).)

11 124. The Coastal Act defines "person" as "any person, firm, association, organization,
12 partnership, business, trust, corporation, limited liability company, company, district, county, city
13 and county, city, town, the state, and any of the agencies and political subdivisions of those
14 entities, and, to the extent permitted by federal law, the United States, or any of its agencies or
15 political subdivisions." (Pub. Res. Code, § 30111.) Defendants are persons under the Coastal Act.

16 125. The Coastal Act defines "development" in relevant part as:

17 [O]n land, in or under water, the placement or erection of any solid
18 material or structure...; ; change in the density or intensity of use of
19 land; construction, reconstruction, demolition, or alteration of the
20 size of any structure, including any facility of any private, public, or
21 municipal utility ... As used in section, 'structure' includes, but is
not limited to, any building, road, pipe, flume, conduit, siphon,
aqueduct, telephone line, and electrical power transmission and
distribution line.

22 (Pub. Res. Code, § 30106.)

23 126. Moreover, by case law and Coastal Commission interpretation, "development" is
24 interpreted broadly to include any action (or inaction) that impedes access to the beach or public
25 recreation trails. (Pub. Res. Code, §§ 30210, 30211, 30212.5, 30213.)

26 127. The Municipal Code for the City defines "development" as:
27 Whether lying on land outside of the water, or in or under water, each of the following shall be a
28 'development' for purposes of this chapter:

- 1 a. The placement or erecting of any solid material or structure;
- 2 b. The discharge or disposal of any dredged material or any gaseous, liquid,
- 3 solid or thermal waste;
- 4 c. Grading, removing, dredging, mining or extraction of any materials;
- 5 d. A change in density or intensity of the use of any land, including but not
- 6 limited to (1) any subdivision created pursuant to the Subdivision Map Act
- 7 commencing with Cal. Gov. Code § 66410, (2) any other division of land,
- 8 including lot splits; provided, however, that where a land division is brought
- 9 in connection with the purchase of said land by a public agency for public
- 10 recreational use, such division shall not constitute a development for
- 11 purposes of this chapter.

12 **UNPERMITTED DEVELOPMENTS**

13 **(Lunada Bay)**

14 128. On the north side of Lunada Bay nearest Palos Verdes Point, the Lunada Bay boys,

15 its members, and the Individual Defendants built and maintained an illegal rock-masonry-and-

16 wood fort structure at the base of the 100-foot bluff until the structure was removed by the City in

17 late 2016. Plaintiffs are informed and believe and thereon allege that this structure was on

18 property owned by the City.

19 129. In the middle of Lunada Bay, Defendant Lunada Bay Boys and the Individual

20 Defendants have built and maintain a steep trail down the 100-foot bluff called the Goat Trail.

21 Plaintiffs are informed and believe and thereon alleged that this trail is on property owned by the

22 City.

23 130. Defendant Lunada Bay Boys and Individual Defendants have built a campfire ring

24 with seating in the middle of Lunada Bay, near the base of the Goat Trail. Plaintiffs are informed

25 and believe and thereon alleged that this trail is on property owned by the City.

26 131. On the south side of Lunada Bay, there is another trail down to Lunada Bay

27 ("South Trail"). Plaintiffs are informed and believe and thereon alleged that this trail is on

28 property owned by the City.

1 **(Other Unpermitted Development in the City)**

2 132. Plaintiffs are informed and believe and thereon allege that there are various other
3 unpermitted developments in the City that are being investigated.

4 133. One such illegal and unpermitted development is the trail leading to the surf spot
5 called Wally's, another City-owned beach, which is south of Lunada Bay. The steep trail to
6 Wally's leads to another unpermitted structure built of stone with a campfire ring and seating.⁶⁴

7 134. In addition, there are several unpermitted structures at Bluff Cove and Indicators.

8 **BLOCKING FULL PUBLIC ACCESS TO COAST**

9 135. The California Constitution ensures that "access to the navigable waters of this
10 State shall be always attainable for the people thereof." (Cal. Const., art. X, § 4.) The Coastal Act
11 states that in carrying out this constitutional requirement, "maximum access . . . and recreational
12 opportunities shall be provided for all the people consistent with public safety needs and the need
13 to protect public rights, rights of private property owners, and natural resource areas from
14 overuse." (Pub. Res. Code, § 30210.)

15 136. The Municipal Code for the City also prohibits anyone from blocking access to the
16 beach and provides:

17 A. No person shall stand, sit, lie, or congregate on any path, trail, or other way
18 providing access to or from any beach in such a manner as to interfere with
19 or impede the free flow of travel along such access way.

20 B. Unless the prior consent of the city is first received, no person shall place,
21 throw, leave, keep or maintain any object of any type upon any path, trail,
22 or other way which provides access to or from any beach. (Ord. 701 § 2,
23 2012; Ord. 640 § 1, 2002.)

24 **(Lunada Bay)**

25 137. Defendant Lunada Bay Boys' members regularly confront, attack, harass and
26 assault people attempting to access the beach, but also confront, assault, vandalize property, extort,
27

28

⁶⁴ See, Exhibit 25.

1 and bring harm to other persons who work in, visit or pass through the Lunada Bay area for the
2 primary purpose of preventing those people from accessing the beach area and for the purpose of
3 committing torts and other wrongs on them. Defendant Lunada Bay Boys' illegal activities
4 against visiting beachgoers to Lunada Bay, and the City's inaction and support, violates the
5 Coastal Act, the City's Municipal Code, and other laws. Defendant Lunada Bay Boys' activities
6 create a threatening and intimidating atmosphere for visiting beachgoers, and therefore, infringe
7 upon their constitutional right to recreate on California's public beaches.

8 **(Declaratory Relief)**

9 138. Pursuant to Public Resources Code section 30803(a), the California Coastal Act
10 provides, in relevant part that, "any person may maintain an action for declaratory and equitable
11 relief to restrain any violation of this division..."

12 139. An actual controversy exists between the Plaintiffs and the Defendants in that these
13 Defendants have violated and are violating the California Coastal Act, but refuse to admit and
14 remedy the illegal nature of their activities.

15 140. Because of the controversy that exists among the parties, a declaration of the rights
16 and responsibilities of the parties with respect to the California Coastal Act is necessary.
17 Specifically, Plaintiffs seek a declaration from this Court that the Defendants' acts as alleged
18 herein are separate and continuing violations of the California Coastal Act.

19 **(Injunctive Relief)**

20 141. Plaintiffs have no adequate remedy at law to require the Defendants to comply with
21 the Coastal Act as alleged in this Complaint and, therefore, civil fines alone will not remedy the
22 wrongs about which Plaintiffs complain.

23 142. Unless this Court grants the equitable relief sought by Plaintiffs and the public
24 generally, they will be irreparably harmed in that they will be deprived of both the aesthetic
25 enjoyment of the natural resources in this part of the California Coastal Zone.

26 143. Pursuant to California Public Resources Code Section 30803(a), the Coastal Act
27 provides in relevant part: "... On a prima facie showing of a violation of this division,
28 preliminary equitable relief shall be issued to restrain any further violation of the division. No

1 bond shall be required for an action under this section.”

2 144. As a consequence of the Defendants’ activities, Plaintiffs are entitled to a
3 temporary restraining order to prevent any further development in the affected area while the
4 Court considers any application by Plaintiffs for preliminary and permanent injunctive relief.

5 **(Civil Fines)**

6 145. Pursuant to California Public Resources Code section 30820(a), the California
7 Coastal Act provides in relevant part for civil fines as follows:

8 Any person who violates any provision of this division may be
9 civilly liable in accordance with this subdivision as follows: Civil
10 liability may be imposed by the superior court in accordance with
11 this article on any person who performs or undertakes development
12 that is in violation of this division ... in an amount that shall not
13 exceed thirty thousand dollars (\$30,000) and shall not be less than
14 five hundred dollars (\$500) . . . Civil liability may be imposed for
15 any violation of this division other than that specified in paragraph
16 (1) in an amount that shall not exceed thirty thousand dollars
17 (\$30,000).

18 146. Plaintiffs are informed and believe, and on such information and belief allege, that
19 the Defendants are liable for civil fines by virtue of the fact that they have failed to obtain and
20 comply with the terms and conditions of a Coastal Development Permit, and allow non-resident
21 beachgoers to be blocked from Lunada Bay as alleged herein.

22 **(Daily Fines)**

23 147. Pursuant to California Public Resources Code section 30820(b), the California
24 Coastal Act provides in relevant part for additional civil fines as follows:

25 Any persons who performs or undertakes development that is in
26 violation of this division ... when that person intentionally and
27 knowingly performs or undertakes the development in violation of
28 this division ... may, in addition to any other penalties, be civilly
liable in accordance with this subdivision. Civil liability may be
imposed by the superior court in accordance with this article for a
violation as specified in this subdivision in an amount which shall
not be less than one thousand dollars (\$1,000.00), nor more than
fifteen thousand dollars (\$15,000.00), per day for each day in which
the violation persists.

148. Plaintiffs are informed and believe, and on such information and belief allege, that
the Defendants, by virtue of their knowing, intentional, and continuing violation(s) of the

1 California Coastal Act, are liable for daily fines of up to \$15,000.00 for each day in which the
2 alleged violations(s) have occurred and continue without abatement.

3 **SECOND CAUSE OF ACTION**

4 **(Bane Act – Against Lunda Bay Boys and the Individual Defendants)**

5 149. Plaintiffs repeat, re-allege and incorporate herein by this reference each and every
6 allegation contained in Paragraphs 1 through 148, inclusive.

7 150. Plaintiffs seek injunctive relief within the Lunada Bay Safety Zone (depicted in
8 Exhibit 5). The west side of the Safety Zone covers: (a) the sovereign tide and submerged lands
9 of the Palos Verdes Estates Shoreline Preserve from Resort Point in the south to Palos Verdes
10 Point in the north, (b) the City-owned shoreline above the high tide line including the City-owned
11 bluff top and open space from Resort Point in the south to Palos Verdes Point in the north, (c) the
12 street Paseo Del Mar between the intersection of Paseo Lunada and Via Anacapa in the south to
13 Yarmouth Road in the north, (d) the street Oakley Road between Paseo Del Mar and Chelsea
14 Road, (e) the street Via Bandini between Paseo Del Mar and Chelsea Road, (f) the street Avenida
15 Mirola between Paseo Del Mar and Chelsea Road, and (g) the street Via Pena between Paseo Del
16 Mar and Chelsea Road. The Safety Zone is located in the City of Palos Verdes Estates, County of
17 Los Angeles, State of California. Acts that are the subject of this Complaint occurred and are
18 occurring in the Safety Zone, as well as other areas within the Palos Verdes Shoreline Preserve.

19 151. The activities of members of the Lunada Bay Boys violate the Tom Bane Civil
20 Rights Act (hereinafter “Bane Act”), as provided in Civil Code section 52.1. The Bane Act
21 protects an individual’s peaceable exercise and enjoyment of rights secured by the Constitution or
22 laws of the United States, or by the Constitution or laws of California. An individual is protected
23 from attempts to interfere or actual interference, by use of threats, intimidation, or coercion, with
24 his or her peaceable exercise or enjoyment of such secure rights. (Civ. Code 52.1, subd. (a).)

25 152. In addition to being personally victimized by Defendants’ crimes and other related
26 activities, Plaintiffs, and the class members, have observed violent crimes committed against
27 others. Throughout the Lunada Bay area, Defendants’ members not only confront and attack other
28 beach-going class members, but also confront, assault, vandalize property, extort, and bring harm

1 to other persons who live in, work in, or pass through the Lunada Bay area. Defendants' criminal
2 and other related activities against visiting beachgoers to Lunada Bay violate the Bane Act.
3 Defendants' activities create a threatening and intimidating atmosphere for visiting beachgoers,
4 and therefore, infringe upon their constitutional right to recreate on California's public beaches.

5 153. Defendants' activities attempt to interfere with and do interfere with Plaintiffs' and
6 class members' constitutional rights by creating a dangerous, threatening, and intimidating
7 environment in the Lunada Bay area. Their conduct brings potential and actual harm to the
8 Lunada Bay area, and to the visiting beachgoers that would like to visit.

9 154. Throughout the Lunada Bay area, Defendants, individually, collectively, and in
10 concert, also vandalize public and private property, sell and use narcotics, loiter, and drink alcohol
11 on the beach and bluff. These activities occur throughout the day and evening. Such activities
12 create and foster an atmosphere of fear and intimidation. Out of fear for their safety and lives,
13 Plaintiffs and many other visiting beachgoers travel to and from Lunada Bay in groups, rather than
14 alone, in an effort to decrease the likelihood of becoming a victim of a gang attack. Defendants by
15 their threatening, intimidating and coercive actions have attempted to interfere with, and do
16 interfere with the constitutional rights of Plaintiffs and class members.

17 155. To perpetuate their desire to unlawfully intimidate Plaintiffs and members of the
18 class from lawfully using Lunada Bay, Defendants coordinate their efforts using lookouts, by
19 yelling, signaling, and whistling, and by using cell phones. Moreover, Defendants monitor police
20 and fire radios, in addition to the lookouts, to warn each other of approaching law enforcement.

21 156. Under the Bane Act (Cal. Civ. Code, § 52.1(b)), any person whose exercise or
22 enjoyment of the rights secured by the California Constitution, or the United States Constitution,
23 has been interfered with, or attempted to be interfered with, may institute a civil action for
24 damages, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise
25 and enjoyment of rights.

26 157. Plaintiffs and the class members have no plain, speedy, or adequate remedy at law.
27 Many victims and witness to criminal activities committed by Lunada Bay Boys feel the gang's
28 constant, pervasive, and menacing presence in Lunada Bay, and thus refuse to cooperate with law

1 enforcement. Defendants threaten basic public order with their oppressive and widespread witness
2 intimidation. Traditional law enforcement methods and criminal prosecution have not deterred
3 Defendants from pursuing their criminal activities, and Plaintiffs and other visiting beachgoers to
4 Lunada Bay are at continued risk to their safety, lives and property.

5 158. Unless restrained by this Court, Defendant Lunada Bay Boys acting through their
6 respective membership, will continue to violate the rights of Plaintiffs and members of the class,
7 as protected by the Bane Act. Unless restrained by this Court, Defendant Lunada Bay Boys will
8 continue to harass, attack, injure, and threaten visiting beachgoers to Lunada Bay. Unless
9 restrained by this Court, Defendant Lunada Bay Boys will continue to intimidate visiting
10 beachgoers from reporting and prosecuting criminal activities committed by Lunada Bay Boys.
11 Unless restrained by this Court, Defendants will continue to build and maintain illegal structures
12 in Lunada Bay and vandalize visiting beachgoer property. Unless restrained by this Court, Lunada
13 Bay Boys gang members will continue to engage in violent activities in Lunada Bay area. Unless
14 restrained by this Court, Defendant Lunada Bay Boys gang members will continue to drink in
15 public. Unless restrained by this Court, members of Defendant Lunada Bay Boys gang will
16 continue to loiter in the Lunada Bay area, blocking Plaintiffs and the class of beachgoers from
17 using the trails to gain ocean access to Lunada Bay. Unless restrained by this Court, Defendant
18 Lunada Bay Boys will continue to threaten, intimidate, and coerce Plaintiffs and the visiting
19 beach-going class so that they will not exercise their state rights to recreate in Lunada Bay, in a
20 peaceful, safe, and secure environment.

21 THIRD CAUSE OF ACTION

22 **(Public Nuisance - Lunada Bay Boys and the Individual Defendants)**

23 159. Plaintiffs repeat, re-allege and incorporate herein by this reference each and every
24 allegation contained in Paragraphs 1 through 158, inclusive.

25 160. The activities of Defendant Lunada Bay Boys, acting through its respective
26 members, and the Individual Defendants, constitute a public nuisance pursuant to Civil Code
27 sections 3479 and 3480. Defendants, individually, collectively, and in concert, confront, threaten
28 to kill, assault, vandalize public and private property, extort, loiter, drink alcohol in public areas

1 and bring harm to other persons who work in, visit or pass through the Lunada Bay area. In
2 addition, Defendants' activities obstruct the free passage and use of the public park and ocean
3 access.

4 161. Many of the acts committed by Defendants, individually, collectively, and in
5 concert, constitute a nuisance per se. The City Municipal Code ("PVE Code") section 8.48.015
6 provides that any violation of Title 8, Health and Safety, Title 12, Streets, Sidewalks and Public
7 Places, Title 15, Building and Construction, and Title 19, Coastal Regulations, is declared a public
8 nuisance per se and may be abated as such. Defendants, individually, collectively, and in concert,
9 have committed numerous PVE Code violations including, but not limited to, the following:
10 smoking in undeveloped public place (PVE Code section 8.56.020); erecting, placing,
11 constructing, establishing, or maintaining any structure or object on public property without a
12 permit (PVE Code section 12.04.020); making or causing to be made any excavation, cut, or fill in
13 any public place in the city without a permit (PVE Code section 12.12.020); violating city rules
14 and regulations governing use and enjoyment by the public of any park or grounds (PVE Code
15 section 12.24.020); disorderly conduct in parkland, including but not limited to disrobing,
16 urinating, displaying any lewd act, and throwing stones, in any park or grounds (PVE Code
17 section 12.24.100); violating of building codes (PVE Code section 15.08.130); and failing to
18 obtain a coastal development permit (PVE Code section 19.020.030).

19 162. In addition to these PVE Code violations, Defendants, individually, collectively,
20 and in concert, obstruct the free passage and use, in the customary manner, of a navigable bay and
21 public park, which is deemed a public nuisance per se under Civil Code section 3479.

22 163. Defendants, individually, collectively, and in concert, annoy, harass, and confront
23 individuals who live in, work in, and pass through Lunada Bay area, causing victims to fear for
24 their safety and the safety of their families and friends. Because of Defendants' criminal and
25 nuisance activities, law-abiding people are forced to avoid the Lunada Bay area and parklands, to
26 avoid being confronted, harassed, or assaulted. Consequently, Defendants' behavior is injurious
27 to the health, is indecent, and is offensive to the sense and interferes with the free use and
28 comfortable enjoyment of life and property by the people in the Lunada Bay area.

164. Defendants, individually, collectively, and in concert, proclaim their ownership of the Lunada Bay area by coordinating their efforts to prevent public access by using lookouts, yelling, signaling, whistling, and cell phones. Defendants' activity intimidates and dissuades people from speaking out and is offensive to the senses and interferes with the comfortable enjoyment of public property for those who work in, visit, and travel through the Lunada Bay area.

165. Unless restrained by this Court, Defendants will continue to cause great and irreparable damage, injury, and harm the individuals who work in, visit and pass through Lunada Bay area. Unless restrained by this Court, Defendants will continue to maintain the public nuisance in the Lunada Bay area, by participating in and promoting the above-described activities, including but not limited to assault, harass, threaten, intimidate, and prevent individuals who work in, visit, and pass through Lunada Bay area. Each activity has been, and will continue to be, without the consent, against the will, and in violation of the rights of the community in the Lunada Bay area. The peace, safety, and comfortable enjoyment of the life and property by the community members in the Lunada Bay area are being, and will continue to be, disturbed and threatened, unless equitable relief in the form of an injunction as prayed for against Defendants Lunada Bay Boys, acting through their respective members, and the Individual Defendants is granted.

FOURTH CAUSE OF ACTION

(Assault - Lunada Bay Boys and the Individual Defendants)

166. Plaintiffs repeat, re-allege and incorporate herein by this reference each and every allegation contained in Paragraphs 1 through 165, inclusive.

167. At all relevant times the Lunada Bay Boys and the Individual Defendants acted with the intent to cause harmful and/or offensive contact to Plaintiffs and the class members.

168. Plaintiffs reasonably believed that they were about to be touched in a harmful offensive manner. It reasonably appeared to Plaintiffs that the Lunada Bay Boys and the Individual Defendants were about to carry out the threat.

169. Plaintiffs did not consent to the Lunada Bay Boys and the Individual Defendants' conduct.

1 WHEREFORE, Plaintiffs pray for relief as set forth below.

2 **FIFTH CAUSE OF ACTION**

3 **(Battery – Lunada Bay Boys and the Individual Defendants)**

4 170. Plaintiffs repeat, re-allege and incorporate herein by this reference each and every
5 allegation contained in Paragraphs 1 through 169, inclusive.

6 171. As set forth previously, the Lunada Bay Boys and the Individual Defendants at
7 various different times touched Plaintiffs and various class members with the intent to harm or
8 offend.

9 172. Plaintiffs and various class members did not consent to the touching and were
10 harmed and/or offended by the Lunada Bay Boys and its Individual Defendants' conduct. A
11 reasonable person in Plaintiff's situation would have been offended by the touching.

12 **RELIEF**

13 WHEREFORE, Plaintiffs respectfully request:

- 14 1. That this Court assume jurisdiction.
- 15 2. That this Court certify the class identified in Paragraph 101.
- 16 3. That this Court certify that Plaintiffs Spencer and Miernik are representative of this
17 class.
- 18 4. That this Court issue a judicial determination that Defendant Lunada Bay Boys is
19 an unincorporated association with the meaning of Code of Civil Procedure section
20 369.5 and Corporations Code section 18035.
- 21 5. That this Court issue an injunction under California Civil Code § 52.1, ordering
22 Lunada Bay Boys and the Individual Defendants to refrain from the unlawful
23 conduct and activities described in this action, further enjoining Lunada Bay Boys
24 and the Individual Defendants from congregating, recreating (including but not
25 limited to any beachgoer activity) or otherwise using the Lunada Bay area between
26 Resort Point to the south and Palos Verdes Point to the north, including the Rock
27 Fort, the ocean, beach, bluff, and street areas surrounding Lunada Bay.
- 28 6. With respect to the First Cause of Action, that this Court issue a declaration of the

1 rights and responsibilities of the parties with respect to the California Coastal Act.
2 Specifically, Plaintiffs seek a declaration from the Court that the Defendants'
3 actions as set forth in this Complaint are separate and continuing violations of the
4 California Coastal Act, including the failure in consideration of environmental
5 justice, as defined by the California Coastal Act.

- 6 7. With respect to the First Cause of Action, that this Court issue a declaration of that
7 the City has violated conditions of the sovereign tide and submerged lands trust,
8 under which the State of California granted said lands to the City.
- 9 8. With respect to the First Cause of Action, that this Court issue preliminary and
10 permanent injunctive relief mandating that Defendants refrain from any further
11 activities in the affected area without first complying with the provisions of the
12 Coastal Act, and for a permanent injunction requiring the Defendants to obtain a
13 lawfully issued Coastal Development Permit and that Defendants must take into
14 consideration environmental justice and improving access in Lunada Bay and the
15 Palos Verdes Estates Shoreline Preserve for historically underserved communities,
16 as defined by the California Coastal Act.
- 17 9. With respect to the First Cause of Action, that this Court order a civil fine of up to
18 \$30,000, payable to the State, against each Defendant for each act authorizing or
19 engaging in or performing activities in violation of the California Coastal Act.
- 20 10. With respect to the Fifth Cause of Action, that this Court order a civil fine of up to
21 \$15,000, payable to the State, per day against each Defendant for each day from the
22 commencement of the violation(s) of the California Coastal Act to the date each
23 Defendant complies with the requirements of the California Coastal Act.
- 24 11. With respect to the Second and Third Cause of Action, that this Court: (a) issue a
25 judicial determination that Defendant Lunada Bay Boys is a gang within the
26 meaning of Penal Code section 186.22, subdivision (f), and/or is a gang as defined
27 by *People v. Englebrecht* (2001) 88 Cal.App.4th 1236, 1258; (b) that this Court
28 declare the Individual Defendants to be members of, or associated with, Lunada

1 Bay Boys; and (3) that this Court declare that the Lunada Bay Boys and the
2 Individual Defendants have engaged in predicate crimes under California Civil
3 Code § 52.1.

4 12. With respect to the Second and Third Cause of Action, that this Court issue a
5 judicial determination that Defendant Lunada Bay Boys and the Individual
6 Defendants have violated the Bane Civil Rights Act by interfering by threats,
7 intimidation, and coercion, and by attempting to interfere by threats, intimidation
8 with the peaceable exercise by Plaintiffs', as well as the class of beachgoers from
9 outside of Palos Verdes Estates', constitutional right to access Lunada Bay and the
10 rest of the Palos Verdes Shoreline Preserve.

11 13. With respect to the Second and Third Cause of Action, that this Court issue a
12 judicial determination that a public nuisance within the meaning of Civil Code
13 section 3479 and 3480 exists in the Safety Zone depicted in Exhibit 5, located in
14 the City of Palos Verdes Estates, County of Los Angeles, and bounded by: (a) the
15 sovereign tide and submerged lands of the Palos Verdes Estates Shoreline Preserve
16 from Resort Point in the south to Palos Verdes Point in the north, (b) the City-
17 owned shoreline above the high tide line including the City-owned bluff top and
18 open space from Resort Point in the south to Palos Verdes Point in the north, (c) the
19 street Paseo Del Mar between the intersection of Paseo Lunada and Via Anacapa in
20 the south to Yarmouth Road in the north, (d) the street Oakley Road between Paseo
21 Del Mar and Chelsea Road, (e) the street Via Bandini between Paseo Del Mar and
22 Chelsea Road, (f) the street Avenida Mirola between Paseo Del Mar and Chelsea
23 Road, and (g) the street Via Pena between Paseo Del Mar and Chelsea Road. The
24 Safety Zone is located in the City of Palos Verdes Estates, County of Los Angeles,
25 State of California, and extending 100 yards to the outside of each of these
26 boundaries.

27 14. With respect to the Second and Third Cause of Action, that this Court issue a
28 judicial determination that Defendant Lunada Bay Boys and its members, including

1 but not limited to the Individual Defendants and persons identified in Exhibit 4 as
2 persons who surf or regularly frequent Lunada Bay, are responsible for creating and
3 maintaining a public nuisance in the Safety Zone.

4 15. With respect to the Second and Third Cause of Action, that this Court issue
5 injunctive relief enjoining and restraining Defendant Lunada Bay Boys, its
6 members, including but not limited to the Individual Defendants and persons
7 identified in Exhibit 4 as persons who surf or regularly frequent Lunada Bay, from
8 the unlawful conduct and activities described in this action, and further enjoining
9 and restraining Defendant Lunada Bay Boys and the Individual Defendants from
10 congregating, recreating (including but not limited to any beachgoer activity) or
11 otherwise using the Lunada Bay area between Resort Point to the south and Palos
12 Verdes Point to the north, the ocean, beach, bluff, and street areas surrounding
13 Lunada Bay as described above as the Safety Zone. Further, that this Court enjoin
14 and restrain Defendant Lunada Bay Boys, the Individual Defendants and persons
15 identified in Exhibit 4 as persons who surf or regularly frequent Lunada Bay, and
16 all persons acting under, in concert with, for the benefit of, at the direction of, or in
17 association with them or any of them, from engaging in or performing, directly or
18 indirectly, any of the following activities in the Safety Zone:

19 **a. Do Not Associate:** Standing, sitting, walking, swimming, paddling,
20 surfing, diving, driving, gathering or appearing anywhere in public view, in a
21 public place or in any place accessible to the public, with any other known member
22 of Defendant Lunada Bay Boys including, but not limited to, the Individual
23 Defendants, persons identified in Exhibit 4 as persons who surf or regularly
24 frequent Lunada Bay. For purposes of this Injunction, “public place” means any
25 place open to the general public or a substantial group of the general public,
26 including, but not limited to open space, parks, and streets. For purposes of this
27 Injunction, “accessible to the public” means any place to which the general public
28 or a substantial group of the general public has access, including, but not limited to,

1 sidewalks, alleys, streets, parks, and driveways.

2 **b. No Intimidation:** In person or by electronic means such as the Internet,
3 confronting, intimidating, annoying, harassing, threatening, challenging, provoking,
4 assaulting, or battering any person who lives in, works in, visits or passes through
5 the Safety Zone, or any person known to be a witness to, or victim of, any Lunada
6 Bay Boy gang activity, or any person known to have complained about any gang
7 activity by members of the Lunada Bay Boys.

8 **c. Stay Away From Drugs:** (1) Selling, transporting, possessing or using,
9 without a prescription, any controlled substance, or such drug-related
10 paraphernalia, (2) knowingly remaining in the presence of anyone selling,
11 transporting, possessing or using, without a prescription, any controlled substance,
12 or such drug-related paraphernalia, or (3) knowingly remaining in the presence of
13 any controlled substance, or such drug-related paraphernalia.

14 **d. Stay Away From Alcohol and Marijuana:** (1) Drinking or possessing
15 an open container of an alcoholic beverage in public view, or using marijuana in
16 public view, in a public place or in any place accessible to the public, or (2)
17 knowingly remaining in the presence of anyone possessing an open container of an
18 alcoholic beverage in public view, or any person using marijuana in public view, in
19 a public place or in any place accessible to the public.

20 **e. No Lookouts:** Acting as a lookout by whistling, yelling, or otherwise
21 signaling, by any means, including, but not limited to, hand signals, walkie-talkies,
22 or cellular telephones, to warn another person engaged in unlawful or nuisance
23 activity of the approach of law enforcement officers, or soliciting, encouraging,
24 coercing or employing another person to act as such lookout.

25 **f. No Obstructing Traffic:** Obstructing, impeding or blocking the free
26 passage of any person or vehicle on any street, walkway, path of travel, trail,
27 shoreline, sidewalk, driveway, alley, parking lot or any other area accessible to the
28 public.

1 **g. No Vandalism Tools:** Damaging, defacing, marking, waxing or
2 otherwise applying graffiti to any public or private property, or possessing any tool
3 to puncture a tire or damage a vehicle, or tool to build an illegal structure in the
4 Safety Zone.

5 **h. No Loitering:** Loitering in public view, in a public place or in any place
6 accessible to the public for the purpose of engaging in graffiti, vandalism, drug-
7 related activity or any other unlawful or nuisance activity.

8 **i. No Trespassing:** Being present in or on the property of another person
9 that is not open to the general public, except: (1) with the prior written consent of
10 the owner, owner's agent or person in lawful possession of the property, or (2) in
11 the presence of and with the voluntary consent of the owner, owner's agent or
12 person in lawful possession of the property. For purposes of this provision, the
13 prior written consent must be carried on the enjoined person at the time he or she is
14 visiting the property not open to the general public and must be presented when
15 requested by any peace officer.

16 **j. Obey All Laws:** Failing to obey all laws, including: (1) those that
17 prohibit violence or threatened violence, including, but not limited to intimidation,
18 robbery by force or fear, assault or battery, (2) those that prohibit interference with
19 the property rights of others, including, but not limited to trespass, theft, vandalism,
20 (3) those that prohibit the commission of acts that create a nuisance, including, but
21 not limited to, the illegal sale of controlled substances, blocking the sidewalk, and
22 violation of the City municipal code and ordinances, and (4) any lawful orders of
23 the Court.

24 16. For an award of general damages against the Lunada Bay Boys and the Individual
25 Defendants.

26 17. For an award of special damages against the Lunada Bay Boys and the Individual
27 Defendants.

28 18. For an award of exemplary damages against the Lunada Bay Boys and the

Individual Defendants.

19. For costs and attorney's fees incurred by Plaintiffs as allowed by Code of Civil Procedure section 1021.5 and/or any other applicable provision(s) of law.

20. That this Court award such additional or alternative relief as may be just, proper and equitable.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial on all issues which can be heard by a jury.

DATED: April 13, 2018

HANSON BRIDGETT LLP

By: 

KURT A. FRANKLIN
TYSON M. SHOWER
LISA M. POOLEY
SAMANTHA D. WOLFF

Attorneys for Plaintiffs
CORY SPENCER, DIANA MILENA
SMOLUCHOWSKA-MIERNIK,
AND COASTAL PROTECTION RANGERS,
INC.

DATED: April 13, 2018

OTTEN LAW, PC

By: /s/ Victor Otten

VICTOR OTTEN

Attorneys for Plaintiffs
CORY SPENCER, DIANA MILENA
SMOLUCHOWSKA-MIERNIK, and COASTAL
PROTECTION RANGERS, INC.